

## COUNCIL MEETING

APRIL 11, 2018

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Vice Chair Ross Kagawa at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, April 11, 2018 at 8:33 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 8:35 a.m.*)  
Honorable Mason K. Chock  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable Derek S.K. Kawakami (*present 8:37 a.m.*)  
Honorable JoAnn A. Yukimura (*excused at 1:38 p.m.*)  
Honorable Mel Rapozo (*present at 10:00 a.m.*)

Council Vice Chair Kagawa: Let me go over the Order of the Day real briefly. We have the Council Meeting and at 1:30 p.m., we have the public hearings for Public Safety & Transportation Committee, Bill No. 2695, banning of whips, Economic Development & Intergovernmental Relations Committee, Bill No. 2697, revocable permits, and the Budget & Finance Committee, Bill No. 2700, transportation revenue. Those are the three (3) public hearing items. At 3:30 p.m., we have a certificate and presentation for the Youth Engagement and Action for Health, sponsored by Chair Rapozo. A correction that I want to make is that Council Chair is out not for a blessing, but he is out for the National Public Safety Telecommunications Week. With that, we will start the meeting.

### APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda as circulated, seconded by Councilmember Yukimura, and carried by a vote of 4:0:3 (*Councilmember Brun, Councilmember Kawakami, and Chair Rapozo were excused*).

Council Chair Rapozo:

### MINUTES of the following meetings of the Council:

March 21, 2018 Special Council Meeting  
March 28, 2018 Public Hearing re: Bill No. 2675

Councilmember Chock moved to approve the Minutes as circulated, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the Minutes as circulated was then put, and carried by a vote of 4:0:3 (*Councilmember Brun, Councilmember Kawakami, and Chair Rapozo were excused*).

Council Vice Chair Kagawa: Next item, please.

CONSENT CALENDAR:

C 2018-90 Communication (03/05/2018) from the Director of Finance, transmitting for Council information, the Third Quarter Statement of Equipment Purchases for Fiscal Year 2017-2018, pursuant to Section 17 of Ordinance No. B-2017-821, the Operating Budget of the County of Kaua'i for Fiscal Year 2017-2018.

C 2018-91 Communication (03/12/2018) from Councilmember Chock, transmitting for Council consideration and confirmation, the appointment of Erica Jolie Anuheia Taniguchi to the Public Access, Open Space, Natural Resources Preservation Fund Commission (*Anahola – Hā'ena*) – Term ending 12/31/2020.

C 2018-92 Communication (03/12/2018) from the Housing Director, transmitting for Council consideration, a Resolution Authorizing The Filing Of The Kaua'i County 2018 Action Plan (Home Investment Partnership Program) With The Department Of Housing And Urban Development, United States Of America, For A Grant Under Title II Of The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), As Amended.

C 2018-93 Communication (03/12/2018) from the Housing Director, transmitting for Council consideration, a Resolution Authorizing The Filing Of The Kaua'i County 2018 Action Plan (Community Development Block Grant) With The Department Of Housing And Urban Development, United States Of America, For A Grant Under Title I Of The Housing And Community Development Act Of 1974 And 1987 (Public Laws 93-383 And 100-242), As Amended.

C 2018-94 Communication (03/20/2018) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2698, the Mayor's Proposed Operating Budget for Fiscal Year 2018-2019 regarding the appropriation to Kaua'i Soil Conservation in the Department of Public Works – Grant-In-Aid, as he is the Director for the East Kaua'i Soil & Water Conservation District.

C 2018-95 Communication (03/20/2018) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2698, the Mayor's Proposed Operating Budget for Fiscal Year 2018-2019 regarding the appropriation to Grove Farm (Puhi Metals Recycling) Liabilities in the Department of Finance – Administration and 800 MHz Radio Site Lease: Grove Farm

appropriation in the Emergency Management Agency, as he is a Project Manager employed by Grove Farm Company, Inc.

C 2018-96 Communication (03/20/2018) from Councilmember Chock, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2698, the Mayor's Proposed Operating Budget for Fiscal Year 2018-2019 regarding the appropriation for Leadership Kaua'i training in the Office of the Mayor, as he is a volunteer and facilitator for the annual Leadership Kaua'i adult class; and Leadership Kaua'i and his company, Kupu A'e Leadership Development, are partners in leadership initiatives on Kaua'i.

C 2018-97 Communication (03/27/2018) from the Director of Finance, transmitting for Council information, the Period 6 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detail Budget Report as of December 31, 2017, pursuant to Section 21 of Ordinance No. B-2017-821, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2017-2018.

C 2018-98 Communication (03/28/2018) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to Bill No. 2698, the Mayor's Proposed Operating Budget for Fiscal Year 2018-2019 regarding the appropriation to the Kaua'i Philippine Cultural Center in the Office of the Mayor – Grant-In-Aid, as his immediate family member is a member of the Board of Directors and is a Corporate Officer of the organization.

C 2018-99 Communication (03/28/2018) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal relating to C 2018-27, Grant of Easements from Grove Farm Properties, Inc., conveying easements to the County of Kaua'i, Tax Map Key No. (4) 3-3-018:009, Lihu'e, Kaua'i, Hawaii, for access, utility, and drainage, due to his employment with Grove Farm Company, Inc.

C 2018-100 Communication (04/02/2018) from Councilmember Kawakami, transmitting for Council consideration, a Resolution Appointing Derek S.K. Kawakami As Representative And Ross Kagawa As Alternate To The Executive Committee Of The Hawai'i State Association Of Counties.

Councilmember Kaneshiro moved to receive C 2018-90, C 2018-91, C 2018-92, C 2018-93, C 2018-94, C 2018-95, C 2018-96, C 2018-97, C 2018-98, C 2018-99, and C 2018-100 for the record, seconded by Councilmember Chock.

Council Vice Chair Kagawa: Any discussion? Anyone from the public wishing to speak on these?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-90, C 2018-91, C 2018-92, C 2018-93, C 2018-94, C 2018-95, C 2018-96, C 2018-97, C 2018-98, C 2018-99, and C 2018-100 for the record was then put, and carried by a vote of 4:0:3 (*Councilmember Brun, Councilmember Kawakami, and Chair Rapozo were excused*).

Council Vice Chair Kagawa: Madame Clerk, may we take any police items so that we can get them out? If not, let us proceed.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: We are on page number 3, Communications.

*(Councilmember Brun was noted as present.)*

#### COMMUNICATIONS:

C 2018-101 Communication (03/20/2018) from the Life's Choices Kaua'i Coordinator, requesting Council approval to apply for, receive, and expend Federal funds from the Drug Free Communities Grant through the Office of National Drug Control Policy, and the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, in the amount of \$125,000.00 per year for a period of five (5) years, beginning September 29, 2018: Councilmember Kaneshiro moved to approve C 2018-101, seconded by Councilmember Yukimura.

Council Vice Chair Kagawa: Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-101 was then put, and carried by a vote of 5:0:2 (*Councilmember Kawakami and Council Chair Rapozo were excused*).

Council Vice Chair Kagawa: Madame Clerk, can we take Resolution No. 2018-16, as I see Erica sitting in the audience?

There being no objections, Resolution No. 2018-16 was taken out of order.

#### RESOLUTIONS:

Resolution No. 2018-16 – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND COMMISSION (*Erica Jolie Anuheha Taniguchi – Anahola – Hā'ena*): Councilmember Kaneshiro moved for adoption of Resolution No. 2018-16, seconded by Councilmember Chock.

Council Vice Chair Kagawa: Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Thank you. I want to thank Councilmember Chock for bringing forth this nomination and Ms. Taniguchi for being willing to serve. At her interview a week ago, we really saw what a thoughtful and committed young woman this is and I think Ms. Taniguchi is going to do a great job on the Open Space, Public Access, Natural Resources Preservation Fund Commission.

Council Vice Chair Kagawa: Councilmember Chock.

Councilmember Chock: Thank you, Erica. Thank you for committing to serve and I hope that your time with the County is educational and productive. *Mahalo.*

Council Vice Chair Kagawa: Further discussion? I just want to echo Councilmember Yukimura and Councilmember Chock. I think that Erica is the right fit for the right job and I think she will do a great job and hopefully we can have more of these projects that can benefit the island residents sooner than later. Thank you. With that, roll call.

*(Councilmember Kawakami was noted as present.)*

The motion for adoption of Resolution No. 2018-16 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro,	
	Kawakami, Yukimura	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapoza	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Council Vice Chair Kagawa: Please go back to the top. Thanks.

Ms. Fountain-Tanigawa: We are back to page number 4.

C 2018-102 Communication (03/20/2018) from the Emergency Management Administrator, requesting Council approval to receive and expend Hurricane Shelter Retrofit Program funds from the State of Hawai'i Emergency Management Agency, in a total amount of \$650,000.00, for the retrofits of the Kalāheo Gymnasium and Kaua'i War Memorial Convention Hall for evacuation shelter purposes:

Councilmember Yukimura moved to approve C 2018-102, seconded by Councilmember Chock.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-102 was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Next item, please.

C 2018-103 Communication (03/23/2018) from the Director of Finance, transmitting for Council consideration, proposed amendments to:

- Ordinance No. B-2017-821, as amended, relating to the Operating Budget of the County of Kaua'i, State of Hawai'i, for the Fiscal Year 2017-2018, by revising the amounts estimated in the General Fund, to increase funding of the Adolescent Treatment & Healing Center; and
- Ordinance No. B-2017-822, as amended, relating to the Capital Budget of the County of Kaua'i, for the Fiscal Year 2017-2018, by revising the amounts estimated in the Bond Fund and the General Fund-CIP, to increase funding of the Adolescent Treatment & Healing Center.

Councilmember Kaneshiro moved to receive C 2018-103 for the record, seconded by Councilmember Brun.

Council Vice Chair Kagawa: Any discussion? Councilmember Yukimura.

Councilmember Yukimura: Could I just have the Administration come and explain for the public why this additional moneys are needed?

Council Vice Chair Kagawa: Yes. Thank you, Wally. You may proceed when you are ready.

There being no objections, the rules were suspended.

WALLACE G. REZENTES, JR., Managing Director: Good morning, Wally Rezentes, Jr., Managing Director. The reason for the additional request for funding was based on the actual bids that were received for the construction of the facility. I apologize. Doug is on the way. He has more of the specifics on the details

of it if you need it. Basically, the request is simply as a result of the actual bid amounts that came in.

Councilmember Yukimura: Okay. I would like Doug to come up, maybe when the actual bill comes up.

Mr. Rezentes: Yes. I think we touched on it during our budget session, too.

Councilmember Yukimura: You did.

Mr. Rezentes: Okay.

Councilmember Yukimura: Thank you.

Council Vice Chair Kagawa: Further questions? Seeing none, thank you, Wally. Anybody from the public wishing to speak on this?

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-103 for the record was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Next item, please.

C 2018-104 Communication (03/27/2018) from the Director of Human Resources, requesting Council approval of the provisions set forth in the CPS HR Consulting Test Rental and Use Agreement with regards to indemnification, attorney's fees, and interpretation; jurisdiction: Councilmember Kaneshiro moved to approve C 2018-104, seconded by Councilmember Brun.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-104 was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Motion carried. Next item, please.

C 2018-105 Communication (03/27/2018) from Councilmember Kawakami and Councilmember Kaneshiro, transmitting for Council consideration, a proposal to amend Chapter 5A, Kaua'i County Code 1987, as amended, relating to Real Property Tax, to establish a real property tax exemption for residential homeowners who

install an automatic fire suppression system which meets minimum design specifications: Councilmember Kaneshiro moved to receive C 2018-105 for the record, seconded by Councilmember Brun.

Council Vice Chair Kagawa: Any discussion? Anybody from the public wishing to speak on this? Alice. We have Proposed Draft Bill (No. 2706) that is going to come up later in the agenda.

There being no objections, the rules were suspended to take public testimony.

ALICE PARKER: Do you want to hear me now or later?

Council Vice Chair Kagawa: Now.

Ms. Parker: Okay. Alice Parker, for the record. I think it is a good idea to have...where am I...real property tax exemption for residential homeowners who install an automatic fire suppression system, which meets minimum design specifications. However, perhaps the first year, no taxes, but after that, a decreased rate because they will not require County fire services and things as much. But not a total tax exemption. I have not read the Bill, so perhaps I am imputing things that are not there. Thank you.

Council Vice Chair Kagawa: Thank you, Alice. Anybody else from the public wishing to speak on this?

Councilmember Yukimura: Is it possible to get Real Property to talk if they are ready?

Council Vice Chair Kagawa: Sure. Are you ready to talk about this, Steve? I have a few questions as well. Councilmember Yukimura.

Councilmember Yukimura: I just wondered whether Real Property has been able to estimate the revenue loss that might come from this.

STEVEN A. HUNT, Real Property Tax Manager: Steve Hunt, Real Property Tax Manager, for the record. We do not keep track of buildings that have these suppression systems currently, nor can we anticipate who will be installing them. Certainly, I think it is worthwhile rewarding those that will be less reliant on some of our services, especially Fire, and hopefully preserving value in the event that a fire did occur. My biggest concerns, I guess, are we potentially rewarding those that are already mandated to put them in? I think there is a certain distance from the road or hydrants, so many already have them installed, and giving a retroactive bonus, if you will, for that is not the same as encouraging incentive for future construction. I think those may be our two (2) separate items: are we doing it only for new systems or are we rewarding all systems?

Councilmember Yukimura: Right now, certain homes are required to do it if they are far from a fire station, for example?



Mr. Hunt: Fire can probably speak better to this, but I believe the distance from either the hydrant or the road and depending on the pressure of that waterline that runs along the road, if it is insufficient, then as part of the building process, it becomes a requirement for certain buildings and sites.

Councilmember Yukimura: Would the forty thousand dollars (\$40,000) be a flat exemption?

Mr. Hunt: The forty thousand dollars (\$40,000) would be similar to our safe room exemption, which I think is also forty thousand dollars (\$40,000), so it is difficult to put a dollar on it because it is not limited to any one tax class. That forty thousand dollars (\$40,000), if it was an exemption for the Homestead class, because the tax rate is lower, the dollar calculation of relief is lower. So a forty thousand dollar (\$40,000) exemption for those in the Homestead class would be about one hundred twenty-two dollars (\$122) a year; whereas, if they were doing a safe room and a vacation rental at the higher tax rate, that would be about three hundred fifty-four dollars (\$354) a year. So it just depends. Of course, there are also relatively paying much higher taxes.

Councilmember Yukimura: Does the homeowner's fire insurance rate also go down?

Mr. Hunt: Beyond my area of expertise, I do not know if that is the case. I would imagine logically that if you install the sprinkler system that you probably could get some break on insurance. I know that is certainly something that the Fire Department has echoed in the past saying that adding stations because the call times have been decreased, like the Keālia Station, and has actually probably resulted in lower premiums from some of the homeowners in those areas.

Councilmember Yukimura: Thank you.

Council Vice Chair Kagawa: Any further questions? Steve, are we following other counties in Hawai'i or something with this Bill?

Mr. Hunt: I am not aware of any other counties that have proposed this yet.

Council Vice Chair Kagawa: So we are leading the charge in trying to be proactive and trying to provide some relief?

Mr. Hunt: As far as I know, yes.

Council Vice Chair Kagawa: Okay. Thank you. Councilmember Yukimura.

Councilmember Yukimura: So you said that you are unable to estimate what the revenue consequences will be?

Mr. Hunt: Correct.

Councilmember Yukimura: Okay. We do not know how many takers there will be.

Mr. Hunt: Two-fold: one is I do not know whether the Bill is going to be effectuated towards properties that have existing systems. That is one whole segment and I do not have a count because that is not something that we track. Two is I cannot predict how many will come in and put in new systems that will then qualify for it.

Councilmember Yukimura: Right. Thank you.

Council Vice Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: Have we tracked how many existing homes are required or did you already answer that question? Does Fire have that data on how many homes are required to have fire suppression systems?

Mr. Hunt: I do not have that data and Fire would be probably best to answer both the questions as to when they become required and maybe how many there are. From Real Property's perspective, what we have not seen is that putting those in add value, because then we would probably be tracking them. I think there is obviously cost upfront, but then there are the aesthetics seeing sprinklers and the potential of leaks and molds. So there are some offsetting reasons why we have not seen it on the value side.

Councilmember Kawakami: On the property tax exemption for hurricane safe rooms, how many properties have taken advantage of our hurricane safe room exemption program?

Mr. Hunt: For the 2018, for fiscal 2019 tax year, we have sixty-three (63) with that exemption.

Councilmember Kawakami: Okay. How many total properties are we talking about islandwide?

Mr. Hunt: Residential properties, excluding apartments and condos, probably in the neighborhood of sixteen thousand (16,000) to eighteen (18,000) single-family homes.

Councilmember Kawakami: Okay.

Council Vice Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: For the hurricane safe rooms, we give a tax exemption?

Mr. Hunt: We do.

Councilmember Yukimura: How much?

Mr. Hunt: Forty thousand dollars (\$40,000).

Councilmember Yukimura: Okay.

Mr. Hunt: It does require that the owners get an architect to certify that the safe room meets certain requirements and inswing doors so that they do not get locked in, a ventilation system, and four-inch concrete ceiling. There is an architect that stamps and approves it, then I believe the Department of Public Works validates that the requirements have been met when it actually comes to the construction. So there is some vetting on the frontend before the exemption can be applied for.

Councilmember Yukimura: Okay. Thank you.

Council Vice Chair Kagawa: Thank you. I think when you say one hundred twenty (120) per year, I am trying to figure out if we thought through in totality how effective something like that would be to entice somebody to come forward. If you are talking one hundred twenty dollars (\$120) per year savings...it is one thousand two hundred dollars (\$1,200) over ten (10) years the savings of putting...I do not know what kind of construction costs are required, but it is kind of interesting. For me, the financial impact seems pretty small for the safety that you get.

Mr. Hunt: Yes.

Council Vice Chair Kagawa: We can get Fire later. Thanks. Is everybody finished asking questions of Steve?

Councilmember Yukimura: Yes. Thank you.

Mr. Hunt: Thank you.

Council Vice Chair Kagawa: We have a couple of questions for Fire.

KILIPAKI VAUGHAN, Deputy Fire Chief: Good morning, Councilmembers.  
Kilipaki Vaughan, Deputy Fire Chief.

Council Vice Chair Kagawa: First of all, I am going to ask the obvious question, are you folks in support of this Bill?

Mr. Vaughan: We support the intent of automatic residential fire sprinklers. Fire sprinklers save lives. That is the ultimate thing.

Council Vice Chair Kagawa: Who does the inspections? Who would do the inspections on these new fire sprinklers being installed in these homes? Would it be Fire or would it be the Building Division?

Mr. Vaughan: We do witness acceptance testing of the inspections. So it is your basic inspection. It is installed by a certified installer and we come over and we check it and we actually watch them manipulate the valves and the system itself, and then we approve it.

Council Vice Chair Kagawa: So if we have more construction, would that be adding to your folks manpower?

Mr. Vaughan: No, not necessarily.

Council Vice Chair Kagawa: My fear is that I would not want to see us do a bill that is going to add bodies to Fire, which I think for me, I would like to put the brakes on hiring more firemen for a while. In reality, I would rather have a fifty thousand dollar (\$50,000) inspector doing it versus a one hundred thousand dollar (\$100,000) fireman. It cuts half the cost already for me. I do not know if we can massage some of that and maybe turnover some of those functions. Then that way, we can please both sides.

Mr. Vaughan: Within the Fire Code, we are the authority having jurisdiction over fire sprinklers.

Council Vice Chair Kagawa: Right. Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. Do you know what the range of the cost for these systems are?

DARYL DATE, Fire Prevention Captain: Good morning, Daryl Date, Fire Prevention Captain. The average cost for a sprinkler system is about four dollars (\$4) a square foot. That is from design to installation.

Councilmember Chock: Okay. So to make up the difference would take quite a few years in order for it to be enticing as we had discussed earlier? At least a couple of years at that rate, right? I just wanted to see what the attraction is if it will be attractive for the resident to move forward on the exemption and see what we can expect. Thank you, Mr. Chair.

Mr. Vaughan: Maybe if I can add, I think the attraction would be that there are multiple families living in the same home. So to protect your family, that much more at a minimum type of cost is huge. There is no doubt that is a huge support to the *'ohana*.

Councilmember Chock: Absolutely.

Council Vice Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: So the forty thousand dollar (\$40,000) tax exemption is an ongoing benefit, right? Every year they get it, it is not like a one-shot incentive. At four dollars (\$4) a square foot, you get a forty thousand dollar (\$40,000)

tax exemption, and as Steve was saying, it varies with the amount of the rate per thousand for a home. So you will have a varying benefit cost ratio.

Mr. Date: Correct.

Councilmember Yukimura: The more expensive houses will get less of a benefit, right? Forty thousand dollars (\$40,000) is a flat amount.

Mr. Date: Yes.

Councilmember Yukimura: I am sorry, I am just trying to figure it out in my own head, but I want to get to the conclusion. As long as my calculations are not off. Thank you.

Council Vice Chair Kagawa: Councilmember Kaneshiro.

Councilmember Kaneshiro: Do you know how many residential units currently have a fire system in their house?

Mr. Date: I would say not to many on Kaua'i. Maybe a dozen or a little more than that.

Councilmember Kaneshiro: Okay. Thanks.

Council Vice Chair Kagawa: So the four dollars (\$4) per square foot, that does not include, like say you have an existing home that they are going to install it; the four dollars (\$4) per square foot does not include other construction costs in order to install, right? The four dollars (\$4) per square foot is the labor and materials for the contractor who is certified and approved by you folks to install in a new house, right? The existing houses are going to cost more, right?

Mr. Vaughan: I think there will be a slight in-scale when it comes to existing housing and retrofitting some of those houses with a fire sprinkler system. It can be anywhere from eight thousand dollars (\$8,000) for the whole system or maybe slide a little further up. It depends whether it is existing or brand new.

Council Vice Chair Kagawa: It all depends. For a fire sprinkler, you have to run water through basically the ceilings of the entire house, right?

Mr. Date: You can install the sprinkler system in different ways. You can hide it so that all the piping is within the ceiling and also the sprinkler heads can be concealed as well with recessed sprinkler heads. Or they could have exposed piping throughout their home and also with the exposed sprinkler heads. So it all depends on their preference.

Council Vice Chair Kagawa: Yes, but if it is outside, it looks ugly, right? I am just kidding. Councilmember Yukimura.

Councilmember Yukimura: Actually, it is much easier to install at time on construction rather than retrofit as in most times the cases are whether you are talking about sprinkler systems or anything else.

Mr. Date: You are correct, it would be easier.

Councilmember Yukimura: So one of the options would be to require it for all new construction. That is another way of saving lives if you say that is what it is.

Mr. Vaughan: May I answer that question?

Councilmember Yukimura: Yes, please.

Mr. Vaughan: Yes, I think the State already tried to mandate that, but it pulled back at the legislature. So it gave us kind of a home rule. In the past few years, there have been some pretty catastrophic fires in residential and multistory type of buildings. Marco Polo comes to mind and if you go beyond that to London when there are all of these different towers. We support the residential sprinkler helping to save lives, whether it is in one-family, two-family, multistory, I think we have spoken pretty loud as a State fire council in support of that up at the legislature. We support this here. Maybe the verbiage can be changed to really allow for different systems to be included into it, but we support the intent.

Councilmember Yukimura: It seems that the urgency of these systems is even greater in the high-rise multifamily because it is much harder to evacuate a building like that than a single-family home. The Marco Polo example was a tragic and really clear example. It is not as compelling. So as a public policy, we could make distinctions saying that this is a higher priority, and then down the line, we have some others or we can do it by requiring certain things and then incentivizing certain things.

Mr. Vaughan: I do not want to split hairs between a person's life in a home and a person's life in a multistory. To me, they are equal and are of equal weight. So how the policy is constructed, I believe it is up to you folks to decide that, but we support the intent of saving lives through residential sprinklers.

Councilmember Yukimura: The probability of death by fire is greater in a high rise that does not have a sprinkler system, right?

Mr. Vaughan: That is a very hard question to answer. There are so many different totality of circumstances that can change.

Councilmember Yukimura: Okay. So do you think that this forty thousand dollar (\$40,000) will incentivize a lot of installations?

Mr. Vaughan: I believe it will get people to start thinking about it and really think about the benefit. I think you mentioned before that the cost-benefit curve changes. The benefit stays the same or actually increases, because as more families stay within the same household, again, you have a *kupuna, makua*,

*keiki*, and even great-grandchildren, maybe twenty (20) people living in the same household because it is so hard to get a house somewhere else. To really protect those twenty (20) lives in the same house, the benefit is exorbitant to me. It keeps on growing and is exponential.

Councilmember Yukimura: Okay. Thank you.

Council Vice Chair Kagawa: Thank you. Further questions? Seeing none, thank you gentlemen. Any public testimony? Alice.

Ms. Parker: Alice Parker, for the record. This is a related question, fire protection. I live in public housing and we do not have individual fire extinguishers. I understand that many of the public houses do. We recently had a kitchen fire and the resident was able to put it out, but the occupants are not instructed on how to use the fire extinguishers, and there are I think one (1) to every four (4) units or something like that. So this place was built in '82 and I do not know if there were any procedures for retrofitting, but I think it is not as safe as it could be. Thank you.

Council Vice Chair Kagawa: Thank you. Anymore testimony from the public? Seeing none, meeting is called back to order. Further discussion? Councilmember Kawakami.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kawakami: Mr. Chair, since we had robust questioning, at this point, the Bill is actually going to come up later, but I figure I would speak to the issue now while we have an audience. To understand the intent of this proposal is to understand the building process. The exemptions are never designed to cover the whole cost of a hurricane safe room and is not designed to cover the whole cost of this residential fire suppression system. So we are not limiting it to sprinklers because technology changes. In the building process, the value of having what we would call a "carrot" instead of a mandate—a "carrot" is there to get somebody to start thinking about all of these amenities that they are going to be building into the built environment. So if you have a good architect and a good contractor, what they do with a homeowner is they go down a checklist of all of the different things that a builder, a homeowner, should be considering when they are going through the building process. Thus, they will say, "There is a forty thousand dollar (\$40,000) tax exemption if you would like to shelter-in-place when the next hurricane hits." That forty thousand dollar (\$40,000) exemption is never designed to cover the cost of that increase in construction costs of a hurricane safe room. That is designed to get a homebuilder to start thinking, "Do I want to burden the County by having to move all of my family members into a shelter in which this island is lacking or would I rather be able to shelter safely in place?" That is the decision that the homeowner will have to decide. We just recently passed an Additional Rental Unit (ARU) Bill; we are going to be increasing density and houses are going to become closer to one another. You may ask whom may decide to take this *manini*, in my opinion, property tax exemption? Guess what? As "baby boomers" start aging, as we start planning for

that silver tsunami, we are going to have an increase of people that are aging in place. So perhaps if you have an elder parent or grandparent and you are building an ARU or an Additional Dwelling Unit (ADU) for them, you may consider putting a fire suppression system, because if they were like my parents when they were alive, they almost burned the house down weekly because they leave the stove on. Another classification that may decide to take this amenity are families with very young children. You take a look at the number of fires that are started by *keiki* playing with lighters and it is astronomical. If you are like my family, and I have had a family member who has a disability, that had a fire in their condo, you may want to consider putting a fire suppression system if you have somebody with a disability. These questions are all good questions, but if you are asking whether or not this is going to pencil out financially, that is the question that the homebuilder is going to have to decide because it will never cover the cost. What it does is it is an educational piece, it provides an exemption. If I am not mistaken, I do not think the counties can mandate fire suppression systems. I think the legislature got ahead of that and had prohibited counties from mandating fire suppression systems. This is a vehicle to provide some sort of subsidy to homeowners who decide to implement this public safety measure in their own homes. Let us get one thing clear, these fire suppression systems are not designed to replace the services that the Fire Departments provide. The only thing that it is designed to do is to save lives, to buy people time to be able to escape safely. That is the intent and to understand it is to understand a whole bigger picture behind the intent of this measure. Thank you, Mr. Chair.

Council Vice Chair Kagawa: Thank you. Further discussion?  
Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to thank Councilmember Kawakami because he gave a really good explanation. I appreciate it.

Council Vice Chair Kagawa: Councilmember Chock.

Councilmember Chock: I really appreciate the Bill. I think it provides an option for families wanting to be safer. Of course, we would all like to see a little more incentives added to these kinds of opportunities. It would be nice to see the State be able to provide some of that in order for this to be taken advantage of and I just think about realistically how many local families are going to bite the bullet and actually follow through. I could foresee maybe looking at this even further and building the package in order for making it more appealing to our families. We really want to see this happen for everyone. I thank the introducers for the intent and the support of this. At this point, I will definitely be supporting it. Thank you.

Council Vice Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: I am very glad that Councilmember Chock brought up that point as far as the State kicking in to this measure. When I was at the State legislature, one of the first things we did is introduce a tax credit for our suppression systems that mirrored the photovoltaic tax credit that we currently have. But it was designed in a more responsible manner. It did have a sunset date so that people understood that this tax incentive was not designed to go into perpetuity and



erode the general fund to infinity and beyond. That measure is still yet to be passed. It continues to be introduced every session and hopefully at some point they will be able to come to some sort of agreement. Thank you, Mr. Chair.

Council Vice Chair Kagawa: Further discussion? Councilmember Yukimura.

Councilmember Yukimura: I just have a question for Fire, but I do not want them to come up now. This is going for first reading, so it will be going to the Committee, et cetera. I would just like to know if there is any jurisdiction where fire suppression systems are a requirement.

Council Vice Chair Kagawa: Okay. We can have that in a written...

Councilmember Yukimura: And what the experience has been.

Council Vice Chair Kagawa: Thank you. I will suspend the rules again.

There being no objections, the rules were suspended.

Mr. Vaughan: Kilipaki Vaughan, Deputy Fire Chief. Would that be local jurisdiction or are you talking national?

Councilmember Yukimura: Anywhere, countrywide.

Mr. Vaughan: Okay. We will do some research on that.

Councilmember Yukimura: Thank you.

Council Vice Chair Kagawa: That was a great question. It is always helpful to know since we are being the first in Hawai'i to do it with this Bill. It is nice to see the relevant information nationwide, so I think that is a great question if we can get answered. I just want to close that I had one (1) letter in opposition and what it opposed was the fact that it would only be incentivizing the contractors that perform the fire sprinklers. There are other areas of building that we want to incentivize, such as using less energy, et cetera. I think that was where that letter opposed. It was like, "Why do we not incentivize other things to the homeowners that are greener and make the whole house safer?" I think we have to consider that opposition as well. I want to echo some of the comments of Councilmember Kawakami and Councilmember Yukimura in that I think this is something that perhaps the State should do a tax credit on income taxes, similar to photovoltaic. Yes, the cost of photovoltaic may be thirty thousand dollars (\$30,000) to forty thousand dollars (\$40,000), much different than four thousand (4,000) or eight thousand (8,000) or whatever we are talking about. However, the State has the big coffers and giving an income tax credit when it provides safety to the residents you serve is a no-brainer. It also could be for converting cesspools and those types of things. This is another task that could be much better handled by the State, which has the majority of our tax money in comparison to County real property taxes. I think the bigger bang would

be if the State would help out residents and incentivize residents, especially when we are talking about saving lives.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-105 for the record was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Madame Clerk, can we go to Proposed Draft Bill (No. 2704)? Then we can get Wally and Doug back to work.

Ms. Fountain-Tanigawa: We are on page number 7, Bills for First Reading.

There being no objections, Proposed Draft Bill (No. 2704) was taken out of order.

**BILLS FOR FIRST READING:**

Proposed Draft Bill (No. 2704) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Operating Budget Transfer to the Adolescent Treatment & Healing Center - \$400,000.00*): Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2704) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Chock.

Council Vice Chair Kagawa: Moved and seconded to approve on first reading. The rules are suspended.

There being no objections, the rules were suspended.

DOUGLAS HAIGH, Chief of Buildings: Douglas Haigh, Department of Public Works, Building Division.

Council Vice Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: Doug, we are adding...

Mr. Haigh: One million nine hundred thousand dollars (\$1,900,000).

Councilmember Yukimura: To already six million dollars (\$6,000,000)?

Mr. Haigh: Correct.

Councilmember Yukimura: So we had five million dollars (\$5,000,000) from the State legislature, so the County is essentially adding two million dollars (\$2,000,000) more?

Mr. Haigh: Yes.

Councilmember Yukimura: No, three million dollars (\$3,000,000).

Mr. Haigh: Well, the County, a total of three million dollars (\$3,000,000), yes.

Councilmember Yukimura: Yes, so the total cost will be seven million nine hundred thousand dollars (\$7,900,000) or eight million dollars (\$8,000,000) roughly.

Mr. Haigh: It sounds about right.

Councilmember Yukimura: Okay. The original estimate was five million dollars (\$5,000,000), so we are getting quite a bit over what the original estimate was and maybe you can explain how that happened.

Mr. Haigh: The facility, as we get further and further into design, it got larger.

Councilmember Yukimura: The facility got what?

Mr. Haigh: The facility got larger and there were additional requirements in the facility. Also, as we developed our site, there are considerable costs in development of the site, over one million five hundred thousand dollars (\$1,500,000) just in the site development costs. Those all add to the cost.

Councilmember Yukimura: What was the cause for the building getting larger?

Mr. Haigh: I have not broken that down.

Councilmember Yukimura: One of the things the feasibility study said pretty strongly was do not have male and female together and everywhere, the Salvation Army and those places that have run these kinds of facilities have said that is a really important principle to follow. But we are putting both male and female and I presume that is increasing the cost in size.

Mr. Haigh: Well, the residential wing of the facility does have a separate male side and a separate female side with a supervisor space in between the two.

Councilmember Yukimura: So we are kind of violating a sort of standard rule. What happens if we cannot find a contractor to run and operate? Maybe that is a question for you, Wally.

Mr. Rezentes: As I understand it, there are all indications from discussions that have taken place over the last two (2) or three (3) years that there are willing participants that are wanting to bid. Of course, I cannot predict the future like we always hope when we go out to bid that we get twelve (12) contractors bidding on one (1) project. Sometimes there are three (3) or four (4). Sometimes there are two (2) and sometimes there is one (1). We can only go on what we believe to be the case and we believe there will be interested parties.

Councilmember Yukimura: Okay. Thank you.

Council Vice Chair Kagawa: Further questions for the Administration? Seeing none, thank you gentlemen. Anybody from the public wishing to speak on this Bill for first reading? It will be vetted a couple more times. Seeing none, roll call.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2704) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapoza	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Proposed Draft Bill (No. 2705) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND GENERAL FUND-CIP (*CIP Budget Transfer to the Adolescent Treatment & Healing Center - \$1,900,000.00*): Councilmember Brun moved for passage of Proposed Draft Bill (No. 2705) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Any discussion? Anyone from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2705) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapozo	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Council Vice Chair Kagawa: Can we go back to where we were before?

C 2018-107 Communication (03/29/2018) from the Deputy Planning Director, on behalf of the Public Access, Open Space, Natural Resources Preservation Fund Commission, transmitting for Council consideration, proposed amendments to the following:

- Ordinance No. B-2017-821, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2017-2018, by revising the amounts estimated in the Public Access, Open Space, Natural Resources Preservation Fund, to appropriate funds for the acquisition of the Pak Hook Tong Cemetery and vacant land on a property in Kekaha, Kaua'i, Hawai'i, further identified as Tax Map Key (4) 1-2-013:041; and
- Ordinance No. B-2017-822, as amended, relating to the Capital Budget of the County of Kaua'i, for the Fiscal Year 2017-2018, by revising the amounts estimated in the Public Access, Open Space, Natural Resources Preservation Fund – CIP, to revise the amounts estimated in the newly created fund titled, the Public Access, Open Space, Natural Resources Preservation Fund – CIP, to be appropriated for the Kekaha Coastal Property, Tax Map Key (4) 1-2-013:041 - \$599,000.00.

Councilmember Brun moved to receive C 2018-107 for the record, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Moved and seconded to receive. We can have discussion now. We have members of Open Space here, as well as the Planner in charge. Do you folks have any questions?

Councilmember Yukimura: I think for public purposes, if we could have a presentation.

Council Vice Chair Kagawa: Ka'aina, are you ready? If you could give a brief description and if the members of the Open Space commission want to speak as well.

There being no objections, the rules were suspended.

KA'AINA S. HULL, Deputy Planning Director: Good morning, Council. Ka'aina Hull on behalf of the Planning Department. My apologies, we do not have an overall large presentation to give to you folks. This was presented to you folks back in 2017. It was ultimately deferred in order for the Planning Department to do the work to get an appraisal for the property. We apologize for the lateness in getting the figure to you. We did try to procure for an appraisal several times with failure to get sufficient bids for it essentially. So that was the time delay, but we did finally secure an appraiser and they have produced this figure and we have transmitted to you folks under the code of confidentiality. This is a roughly two-acre parcel in Kekaha, located in close proximity to the Kikīaola Boat Harbor. The purpose of the acquisition is twofold: one, to potentially use this two-acre coastal property for recreational purposes, but also in preliminary discussions with the landowner, there is also the adjacent Kekaha Chinese Cemetery that could be part of the acquisition that this essentially has no real stewardship agreement or any continued thorough maintenance of the site. For historical preservation purposes, that cemetery could be folded into the possible acquisition. That is it in a nutshell and I apologize again for not having a presentation.

Council Vice Chair Kagawa: I think the formal presentation can come during Committee. I think you did a great job. Members, do you have any questions at this time?

Councilmember Yukimura: Thank you. We have been trying to do it on first reading so that the public knows what to testify on and at public hearing before our Committee Meeting. So the acquisition will be done by the County and therefore the County will own and manage this site?

Mr. Hull: Correct. In discussions as we have presented previously, in discussions with the Department of Parks & Recreation, they did not have the resources to manage this specific site. So the department reached out to the community to see if there was any interest from community organizations to manage the area and there has been an expressed interest. In fact, two (2) specific proposals were provided for possible stewardship agreements. Ultimately, we could not act on them because it is not a County facility or site at this time, but there has been expressed interest from community organizations to manage the site.

Councilmember Yukimura: Who are those community organizations?

Mr. Hull: One is Kekaha Gardens and second is the Kekaha Hawaiian Homes Association.

Councilmember Yukimura: So in your discussions with them, there is very likely to be someone who will take up the stewardship agreement?

Mr. Hull: Those discussions were happening in 2017 ever since the deferral has been focused on the appraisal. So we have to reengage them again, but when we had the deferral back in 2017 and seeing there was a definite interest on their parts for managing the area.

Councilmember Yukimura: If you do not have someone ultimately, it will fall on the County.

Mr. Hull: Correct. It may be a bit premature to talk about it, but the Open Space Commission, as we have talked to you folks previously, one of the problems with the Open Space Commission and its fund is while the funds are specifically to the dedicated for acquisition, they cannot be used for things like improvement and maintenance, which has been somewhat of a barrier for the Open Space to get recommendations to you folks because of the inability that while there might be possible acquisitions out there, the inability to have a long-range plan as far as how that site will be maintained has again served as a barrier. The Open Space has reviewed and put a proposal to the Charter Review Commission to amend the Charter that will allow some of these funds to be used for the maintenance and possible improvements of open space acquisitions. But ultimately, that will be up for the vote if it makes it onto the proposed charter amendment. If it does pass, that is also another possibility for this site. I think it would be in the interest of the department, as well as the commission, to first and thoroughly and actively seek out those community associations that want to do it on the frontend. Like I said, for this particular project, it looks like we do have an expressed interest from community organizations.

Councilmember Yukimura: Do you have a copy of that amendment that has already been proposed?

Mr. Hull: I do not have it with me right now, but we can get that to you.

Councilmember Yukimura: I am concerned about the wording because if it allows for any and all maintenance or capital improvements, that money will go very quickly and we are already worried about having money for acquisition. If it is for improvement such that it will make acquisition possible, it seems like it might work so the wording would have to be really carefully done.

Mr. Hull: We are in definite agreement and have been vetting it very thoroughly with the Office of the County Attorney and it will improvements only for acquisition sites, possible maintenance as well as for existing...because what has come to the commission's attention is the fact that a lot of the public and the general members of the public are asking for and pressuring you folks, as well as the commission, for more accesses to areas like coastal areas. What our research has uncovered is that there are hundreds of accesses out there to coastal areas, but they are paper accesses, they are depicted on maps and tax map keys, but they are not physically depicted and demarcated on the ground, making it impossible for a member of the public to actually utilize those accesses. If moneys from this fund

can be used to just physically survey these sites and then possibly maintain and improve them, thereby demarcating these accesses for the general public to be able to actually utilize as opposed to just look at it on the map is one potential. At the end of the day, when looking what the concern of how these moneys will be expended, it ultimately would take a legislative action by this body to approve any funds removed from this fund to those maintenance or capital improvement projects.

Councilmember Yukimura: It is a slippery slope, so just be careful. Thank you very much.

Council Vice Chair Kagawa: Thank you. Further questions? Seeing none, thank you. Anybody from the public wishing to speak on this?

EVAN PRICE: Evan Price. I would just encourage the development of public/private partnerships to reach out to business groups and other organizations if we can develop public/private partnership that would provide goodwill to the organization and ultimately create the access and create the education about the access of these sites that were just discussed. Without investing taxpayer dollars, it could leverage businesses that contribute to the community. So just a general comment is try to develop public/private partnerships and just a public request that groups that want to spread goodwill to reach out to the coastal acquisition group and see if there ways that private good intentions can be manifested in creating greater public access and utilization of the sites and more efficient use of the money that you are allocating. So there is goodwill out there with a lot of good organizations, like Grove Farm and agricultural communities. They are very willing and contribute a lot to the communities. I just encourage those types of relationships to be developed. Thank you.

Council Vice Chair Kagawa: Thank you. Anyone else? Please state your name for the record.

CHRIS FAYE: Chris Faye. I am probably the last person alive that worked on that cemetery in 1987 and prior to the bicentennial, I worked with Hongman Ji, who was part of the Chinese Heritage Society. I want to point out that this is the most preserved Chinese cemetery on the island and there is Japanese cemetery right next door that the County maintains. It is not really that much more effort because Chinese cemeteries do not have lawns and things like that, so it is really just keeping the weeds back. It is actually in really good condition as far as all of that goes. I would be willing to paint the tombs again if that is something that wants to be done. It is a really important property to preserve and I would be really happy...I also represent on the fringes the people that you would be purchasing the property from. We would all like to see the cemetery preserved and taken care of in perpetuity. Thank you.

Council Vice Chair Kagawa: Anyone else? Alice.

Ms. Parker: Alice Parker, for the record. Thank you, Chris. That was good information. I applaud that she is doing. Keep the open spaces, but I have not thought about maintenance. We cannot have wild open spaces. We do



not want to end up like Manhattan Island. That is where New York City is located. We want space. Thank you.

Council Vice Chair Kagawa: Thank you. Anybody else? Seeing none, the meeting is called back to order.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Vice Chair Kagawa: Further discussion? Seeing none, I just want to thank the Open Space Commission and the Planning Department. For me, I am from the west side, so I am in full support. I do not see any problem with having the community groups step up, and if at any point they cannot do it, I think our Parks Beautification crew is fully capable of managing that park. We do periodic maintenance on these planters and things like that. I think on my priority list, at least, that is much higher, taking care of an area like that for the public. So I just want to state that regardless of whether the agreement is solid or not, that does not hinder my vote in support. I just want to thank the commission for that. I think it is a great acquisition and we definitely need more open space and more park areas for local residents on west side. I have gone fishing a couple of times recently on west side and my old spots where I had more privacy was just packed with fishermen and residents. I think we have double the amount of residents from when I was younger, just a lot more people and a lot more people using the beaches and the fishing grounds and I think having more would definitely add to our enjoyment of life on west side. With that, the motion is to receive this item.

The motion to receive C 2018-107 for the record was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Motion carried. Next item, please.

Ms. Fountain-Tanigawa: Vice Chair, the next item is C 2018-108, which we will take after the Executive Session, so it brings us to Legal Document, C 2018-109.

#### LEGAL DOCUMENT:

C 2018-109 Communication (03/20/2018) from the Acting County Engineer, recommending Council approval of the Attorney Fee Provision in the Detention Basin Agreement for the Rice Camp Phase II Development between the County of Kaua'i and Rice Hoala Partners, LP, for the maintenance of detention basins located within the Rice Camp Phase II development.

- Rice Camp – PH II Detention Basin Agreement

Councilmember Brun moved to approve C 2018-109, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Any discussion?

Councilmember Kaneshiro: I have a question.

Councilmember Yukimura: Is Housing here?

Councilmember Kaneshiro: Oh wait, this is a different detention basin agreement. That is okay.

Council Vice Chair Kagawa: Do you have a question, Councilmember Yukimura?

Councilmember Yukimura: Yes, I need Housing.

Council Vice Chair Kagawa: Housing or whoever from the Administration is ready to answer. Is it the Department of Public Works? If you folks are not ready, then we can have...oh, this is a Public Works question and they are not here. Let us move on. We will take the item later when Public Works shows up.

Councilmember Yukimura: Okay. Thank you.

Council Vice Chair Kagawa: I know Mike was here earlier and I do not know he was ready for that question, but I am sure that they are watching the meeting. We can just take some other items.

Ms. Fountain-Tanigawa: Okay. Vice Chair, we are on page number 6, Committee Reports.

#### COMMITTEE REPORTS:

#### PLANNING COMMITTEE:

A report (No. CR-PL 2018-03) submitted by the Planning Committee, recommending that the following be Received for the Record:

“PL 2018-01 Communication (03/28/2018) from Committee Chair Chock, requesting the presence of the Planning Director, to provide a briefing on the West Kaua‘i Community Plan, including but not limited to the projected timeline, how community engagement is being encouraged, format of the plan, areas of focus, and the consultants being used,”

Councilmember Chock moved for approval of the report, seconded by Councilmember Brun.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Next item, please.

A report (No. CR-PL 2018-04) submitted by the Planning Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2675 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Farm Worker Housing Use Permits*),”

Councilmember Chock moved for approval of the report, seconded by Councilmember Brun.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion? Anybody from the public wishing to speak on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 6:0:1 (*Council Chair Rapozo was excused*).

Council Vice Chair Kagawa: Next item, please.

Resolution No. 2018-17 – RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2018 ACTION PLAN (HOME INVESTMENT PARTNERSHIP PROGRAM) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER TITLE II OF THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT (PUBLIC LAW 101-625), AS AMENDED: Councilmember Brun moved for adoption of Resolution No. 2018-17, seconded by Councilmember Yukimura.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion? Any questions that you have for the Administration? Councilmember Yukimura.

Councilmember Yukimura: Do you think we can have them come?

Council Vice Chair Kagawa: Housing. Do you have a question or do you want them to give a brief description of what this Resolution does for them?

Councilmember Yukimura: I can ask a question.

Council Vice Chair Kagawa: Go ahead.

Councilmember Yukimura: This is for authorizing the filing of an Action Plan for the HOME Investment Partnership Program (HOME). So those are regarding HOME funds, right?

There being no objections, the rules were suspended.

KANANI FU, Housing Director: Kanani Fu, Housing Director. Correct.

Councilmember Yukimura: In order to qualify for those funds, we have to file an Action Plan to show how we are going to use them?

Ms. Fu: Yes.

Councilmember Yukimura: Okay. The use that is being proposed here is for the Huakai Partners construction? Can you just tell us about this project?

Ms. Fu: Sure. This project is a multifamily project to consist of thirty-four (34) units and it is located in Waimea and it is being done in partnership with Habitat for Humanity.

Councilmember Yukimura: So is that the land around the tech center?

Ms. Fu: Yes, this is land located around the tech center.

Councilmember Yukimura: That is an excellent piece of property for housing. It is close to everything, like the schools, the businesses and services, and the parks. I am very pleased to know that this project is happening. It is really a great one.

Ms. Fu: Yes.

Councilmember Yukimura: So it is multifamily. Will this be one of the first projects that Habitat does as a multifamily project?

Ms. Fu: So the multifamily portion of the project is being done by Waimea Huakai Partners who is in partnership and Habitat will continue to facilitate the single-family buildout. So it will be a combination of both.

Councilmember Yukimura: So will there be some single-family in that project, too?

Ms. Fu: Yes.

Councilmember Yukimura: What is the total number of affordable houses

that are going to be there?

Ms. Fu: The total amount of single-family homes has not been finalized because we are doing site planning and it is contingent upon the detention basin and roadways. But we approximate forty (40) to forty-four (44) single-family homes in addition to the thirty-four (34) multi-family.

Councilmember Yukimura: So that is around seventy (70) homes.

Ms. Fu: Yes. Again, it is subject to change. We are going through siting right now of conceptual for the homes.

Councilmember Yukimura: Okay. So habitat will do those and their homes are fee simple with a twenty-year buyback?

Ms. Fu: Yes.

Councilmember Yukimura: Okay. What about the multifamily units? How long will they be affordable?

Ms. Fu: The multifamily units under the program will have sixty (60) years...they have a sixty-year affordability period.

Councilmember Yukimura: Because they are using tax credits?

Ms. Fu: The project has applied for low-income housing tax credits, yes.

Councilmember Yukimura: Is there any chance to do what we did in Kolopua where we give more moneys like HOME moneys and maybe get the fee to the land after sixty (60) years?

Ms. Fu: We could potentially do that. Due to the timing of it coming online, the HOME money is being used as a resource to match in the competitive (inaudible) application and the money is intended to use for predevelopment, and when rent stabilization occurs, the project pays back the money. So it actually revolves. That is the mechanism we are going to use for this particular project because the County does not own the land, but we still facilitate that partnership.

Councilmember Yukimura: So that is all good. I guess I would urge the Housing Agency to look at the way the value of getting the fee and turning the loan into a grant. I think in sixty (60) years, we do not know what will happen, but I think we know that affordable housing will probably still be a real need.

Ms. Fu: Yes.

Councilmember Yukimura: To think of thirty (30) families than either being evicted or having to find some replacement housing is sort of a cautionary thought. Thank you.

Ms. Fu: Yes.

Council Vice Chair Kagawa: Thank you. Further questions? Seeing none, thank you.

Ms. Fu: Thank you.

Council Vice Chair Kagawa: Anybody from the public wishing to speak on this? Further discussion? Councilmember Yukimura.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: I just want to express my delight that this project is happening. There was a previous project slated for that place and due to various factors, it did not start and it is such an ideal site. It will contribute to more kids at Waimea High School, which we all want to see. It is also right in the heart of Waimea Town and it is a walkable, bikable project that is just perfect. Thank you.

Council Vice Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. I am excited about the multifamily component. When you talk about "bang for your buck," it is good to see because Habitat for Humanity does have a multifamily condominium project on Maui called "Kahawai" and if anybody has taken a look at it, it is a high-quality project. It fits a lot more families under roofs under a smaller footprint, so I think that is the way of the future. Thank you.

Council Vice Chair Kagawa: Further discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2018-17 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapoza	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Resolution No. 2018-18 – RESOLUTION AUTHORIZING THE FILING OF THE KAUAI COUNTY 2018 ACTION PLAN (COMMUNITY DEVELOPMENT BLOCK GRANT) WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A GRANT UNDER

TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AND 1987 (PUBLIC LAWS 93-383 AND 100-242), AS AMENDED: Councilmember Brun moved for adoption of Resolution No. 2018-18, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Moved and seconded to approve. Any discussion?

Councilmember Yukimura: Can we have Housing come up again? This, too, is such a wonderful program that I thought we should just have a brief description of the projects you are funding so that the public understands how we are using these moneys and how they are benefitting our community.

There being no objections, the rules were suspended.

Ms. Fu: Sure. Good morning. Kanani Fu, Housing Director. If you do not mind, I would like to call Kerrilyn Barros. She is our Community Development Block Grant (CDBG) Coordinator, so she is better versed on the projects than I am and I am putting her on the spot.

KERRILYN BARROS, CDBG Coordinator: *Aloha* and good morning. Kerri Barros, CDBG Coordinator. We have before you four (4) projects recommending for funding that will be included in the annual Action Plan for program year 2018, submitted to the United States Department of Housing and Urban Development (HUD). CDBG benefits the low and moderate income community or area here on Kauaʻi. There are four (4) categories that the CDBG funds can be used to fund: public services, economic development, housing, and public facilities.

Councilmember Yukimura: Kerri, I know you folks carefully vet these projects. So the projects this year are in public service and public facilities?

Ms. Barros: Correct.

Councilmember Yukimura: So the Hawaiian Community Assets (HCA) Homeowner Education and Counseling Projects—it says here that they conduct workshops for counseling for low- to moderate-income individuals in order to increase homeownership opportunities and prevent foreclosures. Are these just Native Hawaiian people or are the workshops open to all low- and moderate-income?

Ms. Barros: No, the workshops are open to all individuals and families on Kauaʻi. Of course, Hawaiian Community Assets can serve individuals who are over eighty percent (80%) the low- and moderate-income persons, but CDBG will pay for those that they serve that are under.

Councilmember Yukimura: So they probably offer their services for those above the low- and moderate-income level for a fee or sliding fee?

Ms. Barros: I am not sure if they charge a fee.

Councilmember Yukimura: Okay. At any rate, anyone who is interested in becoming a homeowner can take these courses and they teach budgeting and how to save for your down-payment and things like that, right?

Ms. Barros: It is also for current homeowners to prevent foreclosure. So with the counseling portion, they will meet with certified HUD educators who would help them through if they are at risk for foreclosure.

Councilmember Yukimura: We found in our housing program that we spend a lot of money to make these homes available and then sometimes our clients, so to speak, lose their homes because they do not know how to budget. It is a requirement for the County to get on the County list to do a homeowner course.

Ms. Barros: Correct, so the Housing Agency has two (2) programs: Homebuyer Loan Program and a Home Purchase Program. First-time homebuyers individuals and families could come if they are on the waitlist and you will have to take the classes through HCA or another HUD certified organization to receive a certificate saying that they have completed the classes and to be on the County waitlist in order to be eligible for the two (2) County programs.

Councilmember Yukimura: So you want to make sure that someone who becomes a homeowner stays a homeowner?

Ms. Barros: Exactly.

Councilmember Yukimura: That is such a good program and really essential to our goal of keeping people in their homes.

Ms. Barros: Yes.

Councilmember Yukimura: Great, thank you. Explain what the Local Family Small Homes Program is.

Ms. Barros: So Homestead Community Development Corporation will serve individuals or families here on the island, and again, low- and moderate-income persons. They could serve those that are over the eighty percent (80%); however, CDBG will pay for the portion of individuals or families who are under. This is an educational program where anyone who is interested in learning the process of going through building a home or a smaller home, six hundred forty (640) square feet, the different agencies that are involved, the steps, and everything to do with building a home—this is an educational program that will teach that.

Councilmember Yukimura: Excellent. Can you just explain the other two (2) public facilities project?

Ms. Barros: So Kaua'i Economic Opportunity has the only emergency shelter on the island and it is in need of repairs/rehabilitation, so CDBG funds will look at correcting any Americans with Disabilities Act (ADA) problems or



accessibility and make improvements to the shower facility and bathroom facilities.

Councilmember Yukimura: Okay.

Ms. Barros: Kalena Park rehabilitation, also a public facility project, will rehabilitate the basketball court and improve the bathrooms and accessibility to the court. This project falls under the national objective for CDBG as a low- and moderate-income area benefit, so according to HUD's data based on low- and moderate-income areas, this part falls under that area.

Councilmember Yukimura: Because we have Lihu'e Court and the Rice Camp...

Ms. Barros: Correct.

Councilmember Yukimura: That is a wonderful project. I think Kalena Park is probably one of the most used parks on the island.

Ms. Barros: Yes.

Councilmember Yukimura: Your last project is this transitional housing.

Ms. Barros: That one is a backup project. We do not have enough funds to fund that, but it did meet the scoring for funding. So should any project not go through or we get other funds from program income, this project could be funded in the future...alternate project. That is what I was trying to say.

Councilmember Yukimura: I see. It is good to have that backup because we do know that funds sometimes become available and certainly a transitional housing for women in need is a really important facility.

Ms. Barros: Yes.

Councilmember Yukimura: Thank you. That gives us a really good idea of what CDBG is doing in our community. Thank you for your fine work on it.

Ms. Barros: Thank you for your continued support with funding CDBG.

Council Vice Chair Kagawa: Councilmember Brun.

Councilmember Brun: You missed "E." What is "E" about? I am just kidding.

Council Vice Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: It does not pertain and to any particular project, but it is more germane to the CDBG program in and of itself. I found it interesting that you have an entitlement program that is based on formula that goes

to city and counties, but then I realized that Hawai'i actually has their own CDBG program carved out specifically for us. I think in 2004, the Appropriations Act asked the Governor of the State of Hawai'i are you going to participate in the State CDBG program or not? At the time, the Governor said, "No, we are not going to participate in the State CDBG." So they actually carved out specifically for Hawai'i County, Kaua'i County, and Maui County. Why is that? Does it work to our benefit to have our own program carved out? If you do not know off the top of your head, that is maybe a discussion on a broader scale than this, but it is interesting.

Ms. Barros: For the entire pot that comes to Hawai'i, one hundred percent (100%) of the CDBG funds that comes from HUD, seventy percent (70%) goes to the City and County of Honolulu. The remaining thirty percent (30%) gets split up between the three (3) islands: Big Island, Maui, and Kaua'i, which is based on population so obviously Kaua'i gets the least amount of funds.

Councilmember Kawakami: It is the CDBG from the City and County of Honolulu that has to lead, right? So they not only get the lion's share, but they are also calling the shots as far as who gets what. Correct?

Ms. Barros: Actually, no. The City and County of Honolulu, with their seventy percent (70%), they do their program and then each island does as well. So we get our funds directly from HUD.

Councilmember Kawakami: So this decision to not participate with the State CDBG is beneficial to Hawai'i or is that kind of ambiguous?

Ms. Barros: Well, if any island does not perform or is not able to meet the Federal requirements of the program, and they are hanging on to that much money, it leaves the other counties who are working well in the CDBG programs less funds. That is how I see it.

Councilmember Kawakami: Thank you.

Council Vice Chair Kagawa: That is a great assessment. Further discussion? Seeing none, thank you.

Ms. Barros: Thank you.

Council Vice Chair Kagawa: Anybody from the public wishing to speak on this? Alice.

Ms. Parker: Alice Parker, for the record. I believe acronym "CDBG" is "Community Development Building Grant?"

Councilmember Yukimura: "Block Grant."

Ms. Parker: Okay. Thank you.

Council Vice Chair Kagawa: Mr. Price.

Mr. Price: Evan Price. I just wanted to encourage a higher-density; research the successful projects on other islands and on the mainland. There are some very high-quality, high-density programs that do allow quality of life and get much more bang for the buck. So please just research and try to emphasize higher-density projects. We want to serve as many people as possible with limited funds and that is a way to do that. Just in that general tone, supporting working poor through rent subsidy is the number one priority that will keep people from becoming homeless and help people. With a little bit of the rent subsidy, people will be able to put aside some savings towards the down payment, which will allow homeownership, so kind of a rent subsidy for working for poor is the number one concept in helping both homeless with the affordability issue for housing. Thank you.

Council Vice Chair Kagawa: Thank you. Further discussion? Anybody else from the public? Seeing none, Members? Councilmember Kawakami.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kawakami: Thank you for your great work in administering these CDBG funds. I think the one of thing that we need to be cognizant of though is that this current Administration at the Federal-level, under the President's budget, actually proposed to cut all of these good funding mechanisms and it would have been disastrous for communities across the nation. The proposal would have eliminated our HOME funding, CDBG funding, Choice Neighborhoods Initiative, and the National Housing Trust Fund. So as we continue to trot along, we have to remind our delegation up at the Federal-level that these are all great projects and this is where CDBG funding is going to and to continue to advocate that this continues to be placed in the budget. Thank you.

Council Vice Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: I concur, these Federal moneys are so important and it is really how we use the Federal moneys that is most important because that determines how much of the money actually reaches the people who live here. I just want to commend the Housing Agency, Kerri in particular, and all those who work as the team for doing this good work, because through our efforts at the Housing Agency, we are leveraging moneys and we are putting them together to support projects that we have done. Kalena is the perfect example, both Lihu'e Court and Kaniko'o at Rice Camp are projects that the County has been instrumental in providing, and now making sure that the park is in good shape is just another way of providing quality of life for our families. The other examples, too, preventing foreclosures and enabling people to hold on to their homes—those are also important.

*(Council Chair Rapozo was noted as present.)*

Council Vice Chair Kagawa: Any further discussion? If not, roll call.

The motion for adoption of Resolution No. 2018-18 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Vice Chair Kagawa: Can we go back to the Legal Document? I will now turn it over to Chair Rapozo.

Ms. Fountain-Tanigawa: We are back to page number 5, C 2018-109.

There being no objections, C 2018-109 was taken out of order.

There being no objections, the rules were suspended.

MICHAEL TRESLER, Deputy County Engineer: Good morning,  
Councilmembers. Michael Tresler, Public Works.

Councilmember Yukimura: Good morning, Mike. Can you just explain? This is a detention basin agreement, so the developer is creating the detention basin as required by our laws to prevent run-off onto other properties in time of high rain or high flooding conditions.

Mr. Tresler: Yes.

Councilmember Yukimura: Mainly, they are indemnifying us?

Mr. Tresler: Yes, there is an indemnification provision that is standard with our agreements for these types of projects.

Councilmember Yukimura: So they are responsible for upkeep and maintenance, et cetera, right?

Mr. Tresler: Yes, they are.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other questions for Mr. Tresler? If not, thank you very much.

Mr. Tresler: Anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order. Any further discussion? Go ahead.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kaneshiro: I originally was going to have a question for Mauna Kea. I was thinking that this was the detention basin that we saw previously and then I realized it is the Rice Camp detention basin and I noticed that the language that we saw in the other one was a lot stricter and this one is a lot more toned down. So I am okay with the language in this detention basin agreement.

Council Chair Rapozo: Thank you. Any other discussion?  
Councilmember Yukimura.

Councilmember Yukimura: I thought we do not have to pay attorney's fees, so why would we have this here where it binds us to do that? Was that not the issue? It seems like maybe it is the recurring...it is the same thing.

Councilmember Kaneshiro: Were you asking me that?

Councilmember Yukimura: No, I think we need the County Attorney up here. I thought we resolved that.

Council Chair Rapozo: With that, we will suspend the rules.  
Councilmember Yukimura has a question regarding the legal document on Rice Camp. Councilmember Yukimura.

There being no objections, the rules were suspended.

Councilmember Yukimura: Thank you. Mauna Kea, we are looking at this "attorney fee provision," which seems to be, to my knowledge, although I do not have the word-by-word comparison in front of me, but it is that same provision that we...what detention basin was it that we dealt with?

MAUNA KEA TRASK, County Attorney: I think it was the Kiahuna one.

Councilmember Yukimura: Yes, thank you. We decided that we did not need this provision. Is this is a different circumstance?

Mr. Trask: No. I think this came up...my review was at the same time as the other one...maybe the timing to reach here was a little different, but it is the same issue, same provision, and needs your approval in order to effectuate. The policy call is this body's to make.

Councilmember Yukimura: I think after considerable discussion, we said that we do not really want to bind ourselves to pay attorney's fees because it is not necessary to.

Mr. Trask: Yes, and that is your policy call to make. I definitely understand the reasoning behind it.

Councilmember Yukimura: So if we were to reject this, would we not be continuing the policy we did with Kiahuna?

Mr. Trask: If you did the same thing in this case as you do in that case, the result would be the same.

Councilmember Yukimura: But they are not differing circumstances that would be impacted differently by the same wording?

Mr. Trask: I do recall...this is for Rice Camp, correct?

Councilmember Yukimura: Correct.

Mr. Trask: There is a little bit of difference in it because we are part of the development of that project versus Kiahuna, which is a private subdivision, private property, and private parties.

Councilmember Yukimura: Right.

Mr. Trask: So I do not have my notes in front of me for this specifically, but it is nuance. It is a little different than the other one, which is a multimillion dollar subdivision. This is an affordable housing project.

Councilmember Yukimura: Okay. So do you want to explain the different then?

Mr. Trask: I would love to follow-up. Again, I do not have my notes with me.

Councilmember Yukimura: Can we just defer this?

Council Chair Rapozo: Anymore questions?

Councilmember Yukimura: The primary responsibility is still on the developer.

Mr. Trask: Pardon me, I just want to speak accurately on the record.

Council Chair Rapozo: Is this standard language in these types of agreements? It works both ways because it says "the prevailing party" or that the non-prevailing party will pay. So if we are doing what we should do, then there should be no concern.

Mr. Trask: Yes, the only thing you see, and you see this sometimes in private agreements, is that when you say "prevailing party," you can get a nominal amount. The court or the arbiter, if it is a mediation or arbitration, can say, "Look, all things considered, yes, I am just going to award them one dollar (\$1)" or adversary in this case gets awarded one dollar (\$1), could be opened up for

tens of thousands of dollars in attorney's fees, which is the only kind of thing you can appreciate, because some people can win and then lose still yet. They are kind of standard though. It is something you do see frequently, and to be totally upfront, like I said last time, we have dealt with it in other cases and then we have realized that this is not appropriate to approve these things unless we come to you to get approval. So we are moving towards that.

Council Chair Rapozo: I guess my question to you as our attorney is do you recommend this clause stay or go, in the best interest of the County? I look at it as protection for us, providing that we do not mess up.

Mr. Trask: That is true.

Council Chair Rapozo: Because then they can sue us all they want, but at the end of the day, we win and they pay; we pay zero in attorney's fees.

Mr. Trask: Correct.

Council Chair Rapozo: They repay your salary...whatever the cost was to defend ourselves, we will be covered by them.

Mr. Trask: Yes.

Council Chair Rapozo: What that does is that kind of prevents or deters people from filing frivolous lawsuits. If I know at the end of the day, if I just want to go and get money from the County, and I know that if I lose that I have to pay their attorney's fees as well, their attorney may want to take a better look at the case. I see this both ways. I can go either way on this, but to me, it is more of a protection than a curse.

Mr. Trask: That is the reason why I am kind of hesitant to answer what is the best way, because there are good arguments on both sides. As a general matter though, we always advise against liability, we always advise against venue, and we always advise against certain things just because as improbable as the chances, we prefer the impossible. But that is not always workable. You have to work with people in this world to get ahead. I just want to stress that it is your call.

Council Chair Rapozo: Any more questions of Mauna Kea? If not, we can have discussion. I will call the meeting back to order. Councilmember Yukimura.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Yes, if we have gone through this discussion, and I would like to see the minutes for our discussion, we spent considerable time and then I think we decided not to go there because it binds us. I think we can always still apply...this is an arbitration case, but we can always apply for attorney's fees if we feel we need it. But to automatically accept it does not seem to be the best way to go.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: For me, the other case, the similarities is that they are asking for the attorney's fees, but the big difference is that Rice Camp housing is our project and if we do not do a good job of maintaining that retention basin, then we are hurting our own investment. The Kiahuna one is a private matter...it is a private development...supposed to do it...if they do not take care of it, of course we should not pay for attorney's fees that cause subsequent problems, but for me, I would rather have the language in, as requested by the Administration, to take care of our problem and our residents and our project. I do not see a problem with this being different from the Kiahuna one because the Kiahuna one and Rice Camp are apples and oranges. For me, I agree with Councilmember Yukimura. We should consider when we make decisions having consistency, but in this case, to me, there is a big difference. It is not the same thing. Let us make sure that we take care of the detention basin and we do not have to worry about any lawsuits or liability. Thank you, Chair.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: In this agreement, we are not agreeing to take care of the detention basin. The developer is the one that is agreeing to take care of this detention basin. So it is not our responsibility and it is, in fact, the same situation with Kiahuna where a third party or a developer is building the detention basin and agreeing to the maintenance of it. So in that case, it is similar, both are similar and we are asking them to indemnify us because we are the landowner, but we are saying if they do not do their commitments properly and the detention basin overflows and causes damage to another property or whatever, that they are indemnifying us. So they take on any defense of us and they pay for it. I think it is the same as Kiahuna and maybe that is why it is important to have Mauna Kea look at this to see if there are any real differences or not. So far as I can determine, it is the same.

Council Chair Rapozo: Any other discussion? What is the pleasure of the body? There is a motion to approve. Again, like I said, if something goes bad, if there is damage, yes, we are not liable; this releases the County from liability. But if we need to go after the developer for whatever reason, that they failed, then at least this language grants us the ability to recoup or legal fees. I already explained the deterrence of a frivolous lawsuit, if the developer or anyone knows that they might end up paying attorney's fees both ways. Go ahead.

Councilmember Yukimura: I think we can ultimately vote however we wish, but I do not think it would hurt to get the County Attorney's analysis of this. I would prefer to defer, then we can make a decision when we have all of the information.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I can see what you are asking for, but he pretty much answered your question and he answered it the last time as well. He



said it is a policy call and that it is your decision. So if you are not comfortable now then you vote "no." He is going to give you the same answer later...he gave you the same answer for the Kiahuna one and he is going to give you the same answer again, I assume, because that was the answer he gave you at Kiahuna. He said that it is a policy call, your decision, and we can support it either way. On this one, I feel more comfortable supporting it because the Rice Camp project is our project. We will be the one tasked with helping to resolve the problem, but to deny it now, this is not the same as denying it for Kiahuna. Private owners own that; that is their project. This is our affordable housing project. I think that is the difference that I am talking about. It is not the same for me.

Council Chair Rapozo: Okay. Let us take a vote on the motion to approve.

Councilmember Yukimura moved to defer C 2018-109, but with a lack of a second, the motion to defer failed.

Council Chair Rapozo: Roll call on the motion to approve.

The motion to approve C 2018-109 was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro,	
	Kawakami, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	Yukimura	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes and one (1) no.

Council Chair Rapozo: Motion passes. Next item, please.

C 2018-108 Communication (03/29/2018) from the County Attorney, requesting authorization to expend funds of up to \$25,000.00 for Special Counsel services to represent the County of Kaua'i in pursuing opioid litigation against the manufacturers and distributors of opioid pain medications, and related matters: Councilmember Kagawa moved to approve C 2018-108, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Mauna Kea, how long is your presentation? Let us take a caption break now and come back with the presentation.

There being no objections, the meeting recessed at 10:15 a.m.

The meeting was called back to order at 10:28 a.m., and proceeded as follows:

Council Chair Rapozo: Meeting called back to order. Mauna Kea, the rules are suspended. Are you going to do a brief statement or go straight into the presentation?

There being no objections, the rules were suspended.

Mr. Trask: I can do it real briefly.

Council Chair Rapozo: The floor is yours.

Mr. Trask: Thank you. *Aloha*. For the record, Mauna Kea Trask, County Attorney. Real briefly, the Office of the County Attorney is requesting authority to pursue litigation against the manufacturers, marketers, and distributors of prescription opioid drugs. This is not about doctors or hospitals. In looking at this issue, our research shows, in fact, that the medical community was responding to a brilliant marketing campaign, in some cases, marketing disguised as education, that led them to believe that the risks of addiction had been overblown. It led them to believe that they had been allowing patients to suffer needlessly and that they can be more compassionate if they prescribe opioids more liberally, and that campaign was filled with misinformation. The companies we are talking about are some of the largest transnational companies in the world with revenues of tens to hundreds of billions of dollars. The amount to be claimed is unstated at this point and will be proven at trial and will include, but not be limited to, fines, fees, punitive damages, compensatory damages to cover the costs associated with amongst other things, public housing, police, fire, healthcare costs, drug rehabilitation services, criminal justice system costs, parks and recreation, and the loss of life and quality of life of Kaua'i's citizens. Finally—then I will get into the presentation itself—the agenda item is for twenty-five thousand dollars (\$25,000) to pursue this litigation; however, I did receive some questions from the body and I researched it further. I was under the misimpression that we had to pay for costs in this litigation case, but in looking at Hawai'i Rules of Professional Conduct 1.8E, given the facts and circumstances, I actually do not need the money; we can enter into a contingency fee agreement with any successful applicant for these services and the agreement would entail, like any contingency fee in a plaintiff's case, they would advance all fees and costs and recoup if successful either via settlement or a verdict. With that, again, I do not really need the money, but I do need your authority under 8.06 of the Charter to get special counsel. This is a special matter in necessitating such services. With that, I will proceed. I am just going to kind of go through this briskly. If you have any questions, please ask them at the end.

First off, opioid epidemic nationally—in 2015, over three hundred million (300,000,000) prescriptions were written for opioids, which is more than enough to have every American adult their own bottle of pills. We are talking about Hydrocodone, Oxycodone, Oxymorphone, and Methadone, especially when prescribed for pain. Parallels of Opioid Sales with Opioid Treatment and Deaths—opioids have claimed one hundred seventy-five thousand (175,000) lives from 1999 to 2013. It is recognized as one of the worst drug epidemics ever and the deaths are comparable to the rate of the death from AIDS in the early '90s. In 2013 alone, sixteen thousand two hundred thirty-five (16,235) deaths are attributed to opioid overdoses. From 1999 to 2010, nationwide, we saw a four-fold increase in opioid sales, which parallel to more than four-fold increase and prescription opioid overdose deaths. The cost of the epidemic across the board, it is not just criminal justice, but actually the larger costs

are related to workplace and healthcare, specifically a loss of productivity, abuse and treatment healthcare costs across the spectrum. Studies have shown that heroin use is tied to prescription opioid abuse, so prescription opioid abuse precedes heroin use by an average of two (2) years. Again, common sense, frequent prescription opioid users are more likely to switch to heroin, and then abuse of prescription opioids have been associated with a forty-fold increase risk of dependence or abuse of heroin.

What we have seen in the County of Kaua'i, as you know, last year, there was about five hundred twenty (520) grams of heroin seized in all of 2017; it is almost a pound. At this point, this year alone, we have had over five hundred eighty (580) grams. That is about a pound and a quarter of heroin. We are only in April, so we are expecting two to three times more by the end of the year, which is an amazing, unfortunate statistic.

One (1) in twelve (12) doctors are being paid by pharmaceuticals marketing opioids and the majority of that is family and general practice physicians. Again, this is not about doctors or hospitals, this is about the companies that manufacture, distribute, and market these drugs. The over-prescription of opioids is a fundamental cause of this epidemic. Opioid prescriptions rose one hundred four percent (104%) from 2000 to 2010. Intensive marketing and limited policing of fraudulent activity leads to the blockbuster success for certain companies marketing and distributing their opioid drugs to which they own patents. One of the companies Purdue success was attributable in part to low patenting standards and enable the company to secure and extend marketing exclusivity for extended-release oxycodone, providing motivation for its aggressive marketing. When you look at this issue, think about the big tobacco lawsuits from the late '90s-early '2000s that this is the next frontier. Now we are dealing with Fentanyl across the nation and is identified as the next wave of the opioid epidemic. With that crackdown, there is more instance of Fentanyl, which is extremely deadly. Our police officers now have to carry Narcan with them, not only to respond to suspects or victims, but also if a police officer comes in contact with that, either by touch or inhaling it in the environment, their partner officer has to distribute Narcan to them so that they do not suffer from doing their job or coming into contact with it indirectly.

Of course, taxpayers are footing the bill. You see an increased...this looks at Narcan and Naloxone costs and distribution. An increasing demand of Narcan, which is a drug use to combat and inhibit the absorption of opioids in the human system has led to pharmaceutical companies drastically increasing the price of Narcan, which is crazy.

The statistics show that all ethnic groups are a victim to this crisis. Popularly, you see on the news, this is billed as primarily a white rural problem, but if you look across the board, it hits everybody. It is not isolated to one social class, one economic class, or one ethnic group. This is a graph regarding the effect on Medicare Part D prescription claims and costs, which are all on the rise.

Now looking at opioids in Hawai'i, what you are seeing is increased overdose and death rates. Despite occasional variation in trending, it is moving significantly upward from 1999 to 2015. You see that reliance or usage of Methadone is declined

by more than one-third since 2006; however, the increase and distribution of drugs that prevent overdose is indicative of the striking growing demand for overdose prevention, as has been seen across the nation. So Hawai'i is not isolated from this. We are just as susceptible as everyone else.

Increase in distribution of Codeine and related synthetic opioids—similar to national trends, distribution of these drugs peaked in 2011-2012 in Hawai'i whereas Codeine values have decreased steadily since 2001.

Now we are looking at Kaua'i County in the effect of this on our island. Codeine and Oxycodone distribution varied from 2006 to 2016 with Oxycodone rates starting significantly higher than State average and ending in 2016 at a similar rate. These are all taken from national and State statistics, so I do not have the up-to-date ones, but as recent as we were able to get. You see an increase in Buprenorphine distribution and it is consistent with the State and is indicative of the striking and growing demand for overdose prevention, which is a cost that the County of Kaua'i bears via our public safety departments. Oxymorphone distribution trends on Kaua'i have been largely similar to statewide peaking in 2011. Again, Medicare Part D prescription claims in our County—you see a significant majority of claims were in Lihue and Ele'ele with over seventy percent (70%) of the Countywide total. By specialty, you are looking again...this is family and general practice right here.

So why is Kaua'i County pursuing this? This is part of a national trend. This is not the first time in the nation that anyone is doing this; it is becoming more and more prevalent. However, we would be the first in the State to do this, either amongst the Counties or the State government itself. We believe that the effects of the opioid epidemic have been felt strongly at the County-level. I did this presentation at our department head meeting on Monday, and across the board, all the departments support it. They all have...not all of them...but most of them have impacts, whether it is Parks & Recreation cleanup, vandalism, homelessness, and public safety issues, et cetera. We experienced significant costs that are separate and distinct from the State and the real goal of this lawsuit filing on the County individually would be to leave the power of accepting a settlement and distribution of any recovery to the County as opposed to giving control of the State. If you recall, the tobacco lawsuits resulted in the State of Hawai'i across the country in the creation of state special funds, which the state controls and the state distributes. We do not see a lot of that money, and we should because our citizens suffer from tobacco use just as anyone else. So the point of filing for us is so that we can control the litigation and you can make those decisions at the appropriate time.

Why should the County of Kaua'i file a lawsuit? If you look, these are previous significant fines. Purdue was fined six hundred thirty-five million dollars (\$635,000,000) in 2007 for claiming the drug was less addictive and not subject to abuse. Similarly, McKesson was fined one hundred fifty million dollars (\$150,000,000). Cardinal Health forty-four million dollars (\$44,000,000) for failure to report suspicious orders. Amerisourcebergen was fined for failure to report suspicious orders of their drug, sixteen million dollars (\$16,000,000). To put this into perspective, what I stated earlier, Cardinal Health is a distributor of these drugs. Revenues last year, according to my internet research, is one hundred thirty billion

dollars (\$130,000,000,000). Amerisourcebergen recently joined together to consolidate their market shares and they are seeing revenues in the amount of one hundred thirty-five point nine billion dollars (\$135,900,000,000).

If you look at substantial settlements under the way, Purdue settled with State of Kentucky, 2013, twenty-four million dollar (\$24,000,000) for misleading the public about the addictiveness of OxyContin; four million dollars (\$4,000,000) with Pike County, Kentucky; Galena settled for seven million five hundred thousand dollars (\$7,500,000); Teva, one million six hundred thousand dollars (\$1,600,000); and Endo, two hundred thousand dollars (\$200,000).

So the causes of action we would be seeking in brief, these are the type of companies that are manufacturers, marketers, as well as distributors. All you need to know is that they are extremely large, high-valued transnational corporations. The claims we would be pursuing would include, but not limited to, violations of Consumer Protection Act/Fair Business Practices, Violations of State Controlled Substances Act, and general public nuisance, negligence, fraud, and unjust enrichment type of claims. For the manufacturers, it is falsely and fraudulently marketing opioids as safe and not addictive, failing to perform proper long-term studies regarding the effects of their drugs, and generally creating a false perception of the safety and efficacy of opioids in the medical community. As far as the distributors, failing to report suspicious orders as required by law. These are existing obligations that they have and we believe they failed to fulfill: conduct and dispensing, supplying or selling their drugs without adequate safeguards. All of this proximately cause injury to the County and its citizens. The relief sought in brief including, but not limited to, civil penalties, treble damages, compensatory damages, punitive damages, and of course fees and costs. That is all I have today. We are looking forward to working together with the legislative and executive branch to combat this. I think it is appropriate this time. We were talking about this at budget. I just appreciate this opportunity and looking forward to taking action on behalf of our community. Thank you.

Council Chair Rapozo: Thank you very much. I just have one quick question. On your slide 25 and 26, 25 shows the fines and 26 shows the settlements; are the fines to the Federal government? Who administered those fines?

Mr. Trask: It is spread out, so if you violate these Federal and State laws, you are looking at Federal and State fines. I cannot equate specifically where they go to, but that is what we are looking at, those type of substantial fines.

Council Chair Rapozo: I see the fines are pretty significant and the settlement numbers are significantly less. I was just curious, for a state like Hawai'i or a county of Kaua'i, what kind of settlement number. I am looking at the entire State of Kentucky was twenty-four million dollars (\$24,000,000) and Pike County, Kentucky was four million dollars (\$4,000,000). These are against individual companies. The Endo settlement, New York State, was for two hundred thousand dollars (\$200,000). Do we even have a ballpark estimate of what our case could be worth for the County of Kaua'i?

Mr. Trask: At this point, no. One of the reasons why this is a matter of necessitating special counsel is because it takes an extreme amount of expertise and organization to really find out to go through our books, audit everything, and identify what our compensatory damages would be, you also look at punitive damages. So that is not related to any specific costs, but actually punished the company for malpractice. When you have something like treble damages, if you conduct yourself a certain way and it is inappropriate, whatever those damages are, treble damages allow you to triple. Again, the point being is that whatever the settlement offer may or may not be, it would be brought to you for acceptance versus State or consolidation with other entities. Again, this is all to be proven at trial and a lot of this is dealt in discovery because you have to understand what these companies are doing before you can figure out what kind of damages you are available to and we need that subpoena power in order to get it first.

Council Chair Rapozo: Okay. Is this going to be an individual lawsuit from the County of Kaua'i or are we joining a class action?

Mr. Trask: At this point, it is individual. I discussed this with other counties and my understanding is that Maui with us...I am waiting for confirmation on that. Big Island and O'ahu is still contemplating it. There may be an opportunity to kind of work in a cooperative purchasing agreement to see if that works for all of us, but nonetheless, they have their own issues to deal with and whether or not they find value in this is their decision to make. I think we have value in this, so we should decide. Sometimes, maybe they need to see what successes we enjoy and they will do their own thing. I do not think we should wait for anyone on this.

Council Chair Rapozo: Thank you. Any questions for Mauna Kea?  
Councilmember Kagawa.

Councilmember Kagawa: Did you comment on the City and County?

Mr. Trask: When I got this agenda last week, I confirmed it was on and contacted my fellow county attorneys and the City and County was still looking at it. They are doing their own analysis.

Councilmember Kagawa: To me, if anybody needs to pull the trigger, it is the City and County because the opioid epidemic is prevalent with the homeless community, right?

Mr. Trask: Yes. I am not saying they are not. I want to be clear that they are just going through their own analysis. I have done mine and I am comfortable so that is why I brought it to you.

Councilmember Kagawa: You see some of the homeless in Honolulu...it is not rocket science. I am glad that you are taking a step. This is one item where I am glad that you are the first. We talk about other things and we say, "What is so good about being first," but in this case, we know that we have issues, and you being the first one to go—I say "congratulations." How can we help, is my question?

Mr. Trask: For at least a couple of years now, I have heard that.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: What was pretty interesting is that seventy percent (70%) of the claims of Medicare Part D prescription claims are in Līhu'e, which is the population, but do we know why 'Ele'ele?

Mr. Trask: I do not. Those are raw numbers. I do not want to speculate either. I thought it was interesting, too. I did not expect that.

Councilmember Kawakami: I would not know. Maybe public safety would know better. I support this endeavor and I will tell you why—with the Hawai'i tobacco settlement, they found out that a majority of the funds were not being used where the Center for Disease Control (CDC) was saying to use the funds and that was for tobacco prevention and anti-tobacco marketing. A lot of it was just going back to the General Fund and a lot of it was O'ahu-centric. So a lot of that tobacco settlement fund was not even coming to Kaua'i, but it was used to fund a University of Hawai'i building on O'ahu that really, you ask yourself, "How does it benefit Kaua'i?" I think the evidence that you put together is compelling to pursue. I think we should be pioneers. Is the State of Hawai'i pursuing a settlement right now with the opioid companies?

Mr. Trask: I do not know. I know that in the summer or fall of last year, they sent a request...there was a press release regarding requests for information from these companies. I have not heard anything since and I do not imagine that they received anything, but I do not want to speculate. On that, too, I guess the compensatory thing...and you are right...the utilization of these funds...I have seen this Council wrestle with and ultimately make a very difficult call regarding adolescent drug treatment health center. Today there is a money bill in front of you to increase that. Those are the type of costs we are looking to...that would be compensatory costs. I think the local level is the body to look for regarding this type of money and this expenditure.

Councilmember Kawakami: Thank you.

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: So the plan is for us to retain special counsel?

Mr. Trask: Correct.

Councilmember Yukimura: Do you have a special counsel in mind or are you taking it off our qualified list or did we even have that category?

Mr. Trask: We did not, so I am going to write a special procurement, if I get authority. It is going to be (inaudible) pursuant to 103D. It is going to discuss contingency fee and we are going to open it up. The type of firm that can do this...this is not a solo practitioner case, this is a big firm. They need to be able to handle this type of claim. There are only a few in the world that can do it, so this would be advertised, its own separate thing, and that is how we would do it.

Councilmember Yukimura: Is there any joining of hands among different jurisdictions whether city, county, or states that are doing similar lawsuits?

Mr. Trask: Yes, I did some research. What I found is that...I am not sure specifically how up-to-date this necessarily is, but there is approximately eighty-two (82) cities and counties in sixteen (16) different states, from the eastern seaboard to New Mexico that have filed these things. I do not know the status of their joining together, but there is a lot of individual cases, which looks like to me, and to be clear, I am not a complex litigator...I do not do class action lawsuits...but unlike the tobacco settlement case, which we are all consolidators of big settlement—counties want to put their own bills in front and have their own interests and resources covered. With that type of array of cases at the municipal level, that seems to be what it is.

Councilmember Yukimura: So the proposal is to retain special counsel for the purpose of suing these opioid manufacturers and distributors?

Mr. Trask: And marketers, correct.

Councilmember Yukimura: Okay. We are not going to do it in conjunction with anyone else, we are doing it as a separate lawsuit on our own?

Mr. Trask: Correct.

Councilmember Yukimura: We are going to call them...what kind of research do we have to do to show the connections and even whom all to sue?

Mr. Trask: It is very complex. I do not want to get too much into strategy on the open floor. I just wanted to present the issue to you. It has to do with notice pleading and all that kind of stuff.

Councilmember Yukimura: Well, then I will state the question in another way—you are asking for twenty-five thousand dollars (\$25,000); how far will that take us?

Mr. Trask: That is what I wanted to clarify, thank you. I do not need the twenty-five thousand dollars (\$25,000). We can go because we would be the plaintiff, because we would be entering contingency fee agreement. Under Rule No. 1.8 under Rules of Professional Conduct, normally, an attorney shall not provide financial assistance to a client in connection with pending or contemplative litigation, except that a lawyer may advance court costs and expenses of litigation,



the repayment of which may be contingent on the outcome of the matter. So that is what we would be seeking: a contingency fee. I do not need the twenty-five thousand dollars (\$25,000), in fact, but I do need your authority to pursue the procurement to get the attorneys.

Councilmember Yukimura: So this Bill is doing both? It is giving you money and authority?

Mr. Trask: That is how it usually is. Under 8.06, I have to request authority and state the amount.

Councilmember Yukimura: Okay, it is not a Bill, it is just a request?

Mr. Trask: Again, I thought we had to do upfront costs, but we do not.

Councilmember Yukimura: So do we modify your request or in our motion to approve then, we are not going to approve twenty-five thousand dollars (\$25,000)?

Mr. Trask: You can always give me less or you can give me...in this case, none at all. Just the authority and the approval to seek special counsel for contingency fee.

Councilmember Yukimura: Special counsel on the basis of a contingency fee arrangement?

Mr. Trask: Correct.

Councilmember Yukimura: You think there is people out there who can do this work?

Mr. Trask: Yes.

Councilmember Yukimura: So you would hire probably from Honolulu?

Mr. Trask: I am putting this out nationally.

Councilmember Yukimura: I see. Have you spoken to the attorney general of the State of Hawai'i in terms of where they are or what the possibilities for combining forces or anything like that?

Mr. Trask: No. I do not see much benefit. I want to cover the County of Kaua'i's cost. My client is the County of Kaua'i.

Councilmember Yukimura: I am thinking that there might be some benefits, but if you say there are not...are there liabilities? Will there be any unexpected costs or any kind of pushback that is going to come in doing this?

Mr. Trask: You may not get any Big Pharma donations, but aside from that, no. Not that I can see. I do not mean to be flipping, but I do not know what it could be, I would be speculating. This body will not be the favorite amongst that group, I suppose.

Councilmember Yukimura: Will not be the favorite among what?

Mr. Trask: Amongst that group of transnational corporations, not to say that you get those, I just want to clarify. I do not think any of you do anyway.

Councilmember Yukimura: We are too small a fish. So that claims as to manufacturers failing to perform proper long-term studies regarding the effects of their drugs—is this not a Food and Drug Administration (FDA) requirement?

Mr. Trask: Yes.

Councilmember Yukimura: It is?

Mr. Trask: I think so.

Councilmember Yukimura: So should we sue the FDA? Did they fail in their job?

Mr. Trask: I do not know if we can, but the point is if you look at the slide regarding...this is slide 31...irrespective of what the FDA did or did not do, these companies' conduct as far as what they were required to do at the Federal-level proximately caused injury to us, the County and its citizens. If you are not following the rules and you benefit from it and you hurt the County of Kaua'i, we are going to get the damage.

Councilmember Yukimura: That is all you have to show?

Mr. Trask: Proximate causation, yes.

Councilmember Yukimura: Yes.

Mr. Trask: That is the negligence analysis, right? It may be more specific in various other statutes, but generally negligence.

Councilmember Yukimura: I may have missed your opening statements. In terms of treble damages, there is a Federal law that we will be suing under?

Mr. Trask: Federal and State acts can provide for treble damages in certain circumstances, but to more specifically identify that, we would have to go through more discovery and I would like to speak with you it the back. I do not have any specifics as to how at this point. We have not even procured it, the case has not started.

Councilmember Yukimura: Okay. Thank you.

Mr. Trask: Thank you.

Council Chair Rapozo: Any other questions for Mauna Kea? Mauna Kea, I do not know if you can answer this, but why has the Federal government or the regulating agencies not gone after these local doctors that are overprescribing? I suspect that the claims...I am not sure if these Medicare Part D claims are coming from the people or if it is coming from the pharmacies. I would assume...it is kind of weird that you have Līhu'e and Kapa'a and you broke it down by all the different communities, so I am wondering if these are claims filed by doctors or actual pharmacies that when the patient comes in to get their medication, the pharmacy sends their claim for payment.

Mr. Trask: Yes, I am not really sure how the medical industry deals with that, but I do know that KPD and the Drug Enforcement Administration (DEA) have gone after local doctors in the past. When I was at the Office of the Prosecuting Attorney, I believe the tail-end of the Spear's Case was there, he used to be out in Kalāheo.

Council Chair Rapozo: Basically, Spear's was a crook. That was the only one. Since then, I have not heard of any other doctors. Those things are given out pretty easily now.

Mr. Trask: Again, when I opened, my research shows that these other cases are uncovering and when you get this movement, like you saw with tobacco and you are seeing with the opioid litigation, is that the medical community themselves are responding to a marketing campaign. They were presented with studies that told them, "You have patients suffering. You can give them this stuff and it is not as bad as you think and/or it can be safe." It turned out not to be the case and it led to a bunch of heroin abuse, prescription drug abuse, and overdose/deaths. That is what we need to look at and that is why we are looking at the industry and how they did what they did.

Council Chair Rapozo: When I look at this, slide 6, one (1) in twelve (12) doctors are being paid by pharmaceutical companies. Top one percent (1%) of the physicians receive eighty-three percent (83%) of the payment. Yes, I would agree that the Big Pharma companies are ultimately liable, but it takes the doctors here to be passing them out or wherever. It takes doctors that are giving these things away...when I had my surgery, I got OxyContin. I asked, "Do you have anything else?" They said, "Do not worry, Mel, it is not dangerous. It is not addicting." I think that is happening throughout, because if, in fact, our doctors or pharmacies or nurse practitioners or whoever the heck is writing the scripts are getting paid, then it starts at the top. They are creating this medical and marketing it. They are telling the doctors it is not addictive. Is the abuse on Kaua'i to that level...I am not putting this on KPD...they do not have the ability to track how many scripts are being written. I went to go buy Sudafed 12-Hour at Longs and I had to show my identification card (ID) and sign a paper. I was shocked. That is over the counter, but these other pills are being handed out like candy. I am concerned,

because what is happening, and I think the police will attest to this, is that grandmas and grandpas are getting these prescriptions and these homes are getting broken into not for the televisions and VCRs anymore; they are going after the medication, the opioids, and these other drugs. That is the scary part. These home invasions is not like the old days where we wanted to steal a television or jewelry. Now, they are just going for the drugs. That equates to money and different drugs. They sell these things.

Mr. Trask: I cannot speak intelligently about how it all interconnects, but I do want to make it clear, because I do not want to misguide the public or create unnecessary fears—this litigation would not be against doctors or hospitals. We will learn...I can answer your questions as we proceed, if I am given authority to do this, but this is focusing on the manufacturers, marketers, and distributors of these drugs.

Council Chair Rapozo: I do not want to be taken out of context either. I believe that there is a need for this medication, but I think also that it should come with a very strict warning and it should be given out in very limited doses and be really monitored so that it does not get overprescribed where you have extras in your medicine cabinet because the pain is gone and you no longer need the medicine and it is sitting in there, waiting for someone to break in. Councilmember Kagawa.

Councilmember Kagawa: For me, how do we work with KPD or this body to make sure what Council Chair is talking about does not happen? I have heard stories that I guess the homeless community, the people that are suffering on welfare, they are being sold these things and using all of their welfare checks...I do not know if it is one thousand two hundred dollars (\$1,200) a month...using their food stamps even and buying...because once you get hooked on these things...the problem is like what Council Chair said, where people are on a prescription, but they are choosing to sell it to make a profit. The guys that they are praying on...we talk about, "How are you helping the homeless? Build more housing"—you are never going to cure the problem if they are spending their welfare check and food stamps on these things. That is why I say, "Great idea, we have to do something," but on the other hand, I think we have to get better accountability on the prescriptions; is it too much for the person, so much that they are not even using it, but they are selling it.

Mr. Trask: I have been a lawyer since 2005. I started with criminal law and I have been reading presentence investigation reports since 2003 and 2004 and it is tragic what you see. It is not just bad people who do this. I have seen somebody get a back injury and they prescribe these drugs. In a couple of years, they are in court on a probation violation for heavy-duty drug use. You see a loss in productivity...somebody will get an injury and they get a surgery and get some of these drugs and get addicted. All of a sudden, they are always choosing surgery and always getting injured. They elect the most intrusive surgery so that they can get the scripts. You get people who are stuck in this thing and they get a drug conviction and can no longer qualify for HUD vouchers. So now, the County has to figure out how to house these people when they are prevented from getting benefits that should be accruing to them. They have to either divorce or the mom or dad cannot take care of them because of all of this stuff. It is rampant. We are finding

needles. One and a quarter pounds of heroin on Kaua'i by April? No one has ever seen that before. It is all over. It is not the cure-all; that is why I said that we are confronting it and dealing with it head-on. I think that is what we need to do now, time to act.

Councilmember Kagawa: Yes, thanks.

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: I think it is very good that we are doing this. I am just a little concerned that we are not looking for partners and partnerships just because I think...we know throughout the County that that gives more strength and can actually optimize, expand our efforts when we do it together.

Mr. Trask: To be clear, I am not saying that we are not. Two (2) months ago, I was talking with all of my court counsel associates and they did express an interest. They are looking at it. I just cannot tell you right now that we have a dedicated group. It may be that in a week or so they will be interested and we will come together. We can always come together later, but I do not want to wait anymore.

Councilmember Yukimura: Yes, I am not advising you wait, but you would not even reach out to the Attorney General?

Mr. Trask: When this came across, Doug Chin was still there, but he is not there anymore. I do not know the current status of what they are doing. We are all very busy. I know it is in front of them and I do not want to create the impression that they are not interested, but they are not pursuing this on their own. Because I cannot tell you today with certainty that everyone is onboard, I am open to working with them later. I am thinking about my client now.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Any other questions? Seeing none, thank you.

Mr. Trask: Thank you.

Council Chair Rapozo: Anyone in the audience wishing to testify?

BRUCE HART: For the record, Bruce Hart. I have to hand it to County Attorney Mauna Kea Trask—this is a “David and Goliath” thing. These pharmaceutical companies, as he has pointed out, make money beyond what we can even understand. They are not just national, but they are global corporations and it is not just this county that is facing this issue, but counties all over the United States. One of the things that is so insidious about this type of addiction is that it affects the homeless, but it affects every day “Joe and Mary America.” They go into a doctor’s office for a pain and the pain is what is driving them. When they are offered something that can alleviate the pain, and it is as simple as taking a pill, it is a

monumental task to overcome the flesh to take that pill and get rid of the pain. I happened to have had back pain, a major back injury, and I can tell you it will swallow your life. So the restrictions that need to be put on the distribution of these kind of drugs must be very strict, because once they have alleviated the pain, they cannot overcome the temptation of the flesh to take it again and they have to go back to that pain. There are alternatives. There is physical therapy, that is where I found my out. This problem has been going on a lot longer than even most of us have been alive. These drugs were available on a more limited distribution all the way back when my dad broke his back and he refused to take them because I had an aunt who had become addicted to them. Again, there is a whole lot to be discussed, but I hand it to Mauna Kea that he would take this on. I hope he kicks the poop out of them. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Seeing none, I will call the meeting back to order. Councilmember Chock.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: I just want to applaud Mauna Kea and the Office of the County Attorney for looking at this issue progressively. This ugly means of legal addiction is really something that has undermined our County, like Mr. Hart has had and still suffers from back pain and understands the implications of utilizing this kind of medication. So I am very supportive ultimately as it may help the health of our community and really ultimately the environment as well. So I look forward to how you proceed and do agree with some of the comments in terms of collaboration. I am a little cautious, just in terms of what kind of unforeseen liabilities or costs that it may incur, but I think it is well-worth us fighting for our community. Thank you, Mr. Chair.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: This is just another problem for the police to deal with, besides the street drugs, and you have this, which is rapidly growing. I fully agree with Bruce that it does affect all types of families with income. For me, the reason I mentioned the homeless is that a lot of the homeless are the ones that are living in our parks, the ones that we want to help get into housing, and to me, unless we fix these problems, when they are spending their entire check that they are getting from the government on these type of items and there is a process that is allowing them to get it and allowing people to illegally profit from that, we will never fix a significant amount of their lives, period. It is real. Some of them, have permanent damage from these types of things. I like Mauna Kea's approach; let us address it in a unique way, but it is a multifaceted approach and we need to find a way to penalize those that are illegally selling those drugs, and yes, we need to try and reduce the amount that are coming in so that doctors are more wary that we are watching them and we are having an eye on the problems. So I think a multi-prong approach, but it definitely needs immediate attention and I think Mauna Kea gives us the immediate attention right now that we can do. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. I would like to thank our County Attorney for the presentation. I wholeheartedly agree. I think we need to go after the pharmaceutical companies, and I will tell you why—the opioid epidemic started in the ‘90s when doctors became aware of the burdens of pain. So these pharmaceutical companies took notice and they capitalized on them and they aggressively and very misleadingly marketed these type of drugs to doctors. I mean doctors are doctors and they are there to heal us, but as far as the tools that they are prescribing, that is where the pharmaceutical companies came in. So they marketed these drugs as being safe and they touted the efficacy of these type of drugs to treat pain and doctors were under pressure at the time also from advocacy groups from pharmaceutical companies and from government. Government agencies pressured doctors to treat the burdens of pain. To put blame on the doctors, I do not think that is where it is at. Of course, we always have a few bad apples, but for the most part, doctors are already taking steps to control the release of these opioid to their patients. I know because I have been through a hernia surgery and I had a torn bicep. They will only prescribe what they think is necessary, which is oftentimes only a few days worth. So there are already these steps. Here is the thing with pain—it is extremely complex to identify and to treat. For these doctors that are dealing with less reimbursements from insurance companies...the insurance companies play a role in this thing, too. The State has regulating authority over insurance companies, so somehow they have to play a part of the solution, too, because pain is complex, doctors are limited with the amount of resources that they have, and they are limited with the amount of time, so they are prescribing, at the time, what they thought was the best and safest way to treat the complexities of pain. The problem that lies is that the alternative modes and treatment of pain are oftentimes not even covered by the insurance companies. So the very people that we need to treat do not have the ways and means to obtain the treatment that they need. That is why I think if this County can be successful in pursuing this lawsuit and getting a settlement, we can now be a part of the solution and we can now help fund programs to give the poorest of the poor the holistic treatment and alternative modes of treatment that they need. Thank you, Mr. Chair.

Council Chair Rapozo:

Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I just want to thank Mauna Kea for getting ahead of this and taking proactive steps. I think when we go to the National Association of Counties (NACo) conferences in the mainland, opioid addiction and opioid in communities is probably the number one issue with a lot of counties in the mainland. I have talked to counties that have a death a day from opioid overdoses and it is a huge problem. I look at us and I say that I am thankful that we do not have a problem like that, but in looking to the future, I am almost sure it is going to head this way. I am glad that we are taking the steps necessary now to maybe try and get resources to kind of battle that from getting here or getting as bad as how it is in some of these other counties in the mainland. So it may be a small issue here now, but I could see it becoming a very big issue because there are counties that have a very difficult time dealing with the opioid addictions and issues in their counties. Anything that we can do to kind of be a little proactive is a benefit to us because it

will probably hit us a lot harder as time goes on. I just want to thank Mauna Kea and his efforts.

Council Chair Rapozo:

Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I really appreciate Mauna Kea's initiative in stepping forward and grabbing this opportunity to raise the issue and to hopefully secure some funding and returns from these companies that have caused so much pain and suffering in our community, and then being able to use the moneys, hopefully wisely, to address some of the issues, and, in fact, if we can prevent our people from even going off the cliff with the problem. I think it is a big issue at NACo and national conventions, because it is not just a homeless issue; it touches all income groups, all races, and all communities. It is so pervasive that people are being affected in all walks of life and their families and loved ones. So I think all of this is good. I think if we are able to get some resources, the challenge is going to be to use the moneys wisely. We received one million dollars (\$1,000,000) for drug prevention enforcement and treatment back in the early 2000s and I do not know what results we got. We never get real clarity about the use of all kinds of drugs, whether it is youth or adults and what we are achieving and how our programs are actually moving the needle. So that is going to be a challenge, too.

Council Chair Rapozo:

Councilmember Brun.

Councilmember Brun: Thank you, Chair. I will try to get through this. Thank you, Mauna Kea, for looking into this. Knowing somebody close to me...sorry, Chair.

*(Councilmember Brun was noted as leaving the meeting.)*

Council Chair Rapozo: That is just the proof that it affects everybody. This stuff is not funny and I think every one of us has someone related to or we know that is impacted by this horrible epidemic or addiction. I will make it clear that, like I said earlier, this medication is important and there is a place for it. When talking about the doctors, I am talking about those that abuse this and use it for money-making purposes. I am not saying that it happens here. One of the commissioners that I spoke to on the mainland, a very small town that has a population of one hundred fifty thousand (150,000) and their town had seven million four hundred thousand (7,400,000) doses of Oxy in that year and the year was not even done yet when I had spoken to him and I am not sure if that is the same...probably not the same person you spoke to, but the deaths were common, overdoses were common. Seven and a half (7.5) doses in a population that is small is not doctors that are being responsible...I am not talking about illegal doses; these are prescriptions that were written legally and legitimately, but it was quite obvious that people were being prescribed this medication more than they needed it and those are the doctors I am talking about that need to be held accountable. It is not our local police's responsibility; it is the Federal government, the FDA or whoever regulates these drugs that have to be paying attention, "How come so many prescriptions are being written from this one place?" That is what happened to Spear in Hanapēpē. I witnessed it with my own eyes. I was there picking up documents for my business,



picking up medical records, and I saw it happen right in front of my eye. I called KPD and they said, "Mel, we are working on it. In fact, something is going to be happening real soon," and it did and they got him. It was incredible what I saw. Those are the ones that I am talking about. Every medication has a side-effect and every medication is not completely safe, but when we start prescribing medication based on the false information from the manufacturers and the deception and the promises that it is not going to cause addiction, the numbers are staggering and the profits are staggering. I applaud Mauna Kea for stepping up. Honestly, I would not want him to communicate work with the State on this one. I think we can. The Attorney General and others have their own motivations, but for us, I think we can deal with this issue as it impacts our people on Kaua'i and not the State's perception of the impact that it has on the State. Really, when you look at O'ahu and Kaua'i, we are apples and oranges. The impacts, as you just saw from one of our Councilmembers...maybe it is a little more intense here or maybe a little more impacting for us. I applaud Mauna Kea for doing this and I look forward to seeing this thing through. This is a start. What I am hearing is that this is sufficient for what Mauna Kea believes for the case to take this thing through. It will more than likely be a contingency case, so if we win, we prevail and get money. If we lose, we do not pay. I think it is the start of a long battle because we are going to be...somebody said "David and Goliath" earlier and that is the true description of what we are going to be facing. With that, the motion is to approve. Roll call.

*(Councilmember Brun was noted as present.)*

The motion to approve C 2018-108 was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: Next item.

Resolution No. 2018-19 – RESOLUTION APPOINTING DEREK S.K. KAWAKAMI AS REPRESENTATIVE AND ROSS KAGAWA AS ALTERNATE TO THE EXECUTIVE COMMITTEE OF THE HAWAII STATE ASSOCIATION OF COUNTIES: Councilmember Yukimura moved for adoption of Resolution No. 2018-19, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: I would just like to say thank you for the

two (2) of you for representing us at the State-level and at the national level. Keep up the good work. I appreciate the work. With that roll call.

The motion for adoption of Resolution No. 2018-19 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2706) – A BILL FOR AN ORDINANCE AMENDING ARTICLE 11, CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Automatic Fire Suppression System Exemption*): Councilmember Kawakami moved for passage of Proposed Draft Bill (No. 2706) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2706) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2707) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING

BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND (*Operating Budget Transfer – Kekaha Coastal Property Acquisition - \$599,000.00*): Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2707) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2707) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2708) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-822, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE PUBLIC ACCESS, OPEN SPACE, NATURAL RESOURCES PRESERVATION FUND – CIP (*CIP Budget Transfer – Kekaha Coastal Property Acquisition - \$599,000.00*): Councilmember Yukimura moved for passage of Proposed Draft Bill (No. 2708) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2708) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 16, 2018, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

**BILL FOR SECOND READING:**

Bill No. 2675 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Farm Worker Housing Use Permits*): Councilmember Chock moved to approve Bill No. 2675, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any one from the public wishing to testify on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Kagawa.

Councilmember Kagawa: I just want to make sure that the Department of Public Works, Department of Parks & Recreation, and the Planning Department, all of these agencies, once this gets final approval, to just make sure that as we administer this Bill and the benefits of having farm worker housing that we make sure, to the best extent possible, that we ensure these are farms and not farms for people. They have to be real farms where we are growing food or vegetables or raising animals, not raising more people to move here from the mainland. Thank you.

Council Chair Rapozo: Any other discussion? Seeing none roll call.

The motion to approve Bill No. 2675, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. Can you read us into Executive Session, please?

### EXECUTIVE SESSION:

ES-945 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with an additional briefing update and request for authority to settle the case of Klaus H. Burmeister, et al. v. County of Kaua'i, CV 16-00402 LEK-KJM (United States District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-946 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the litigation of Mark N. Begley vs. County of Kaua'i, et al., Civil No. CV16-00350, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-947 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the retention of Special Counsel to represent the County of Kaua'i in pursuing opioid litigation against the manufacturers and distributors of opioid pain medications, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-948 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4) (6) & (8), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the County Administration, respectfully requests an Executive Session with the Council to provide the Council with a briefing on communication C 2018-83 from the Chief of Police requesting Council approval to accept Hawai'i High Intensity Drug Trafficking Area (HIDTA) discretionary funding from the Office of National Drug Control Policy, in the amount of \$147,000.00, to be used in obtaining technical communication/wireless equipment, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges,

immunities, and/or liabilities of the Council and the County as they relate to this agenda item as well as to consider sensitive matters related to public safety or security, and to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law.

Councilmember Kagawa moved to convene into Executive Session for ES-945, ES-946, ES-947, and ES-948, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Kagawa.

Councilmember Kagawa: For me, it has been six (6) years that I have seen this Begley vs. County of Kaua'i item and to have something take that long to still not get settled and to have a worker getting paid without having to work—I am sure Mr. Begley is not happy with his result as far as his view of being in the public eye in this situation. I just think that for the County, what has the KPD administration and Human Resources learned from this? This is not the only case. For me, I can see a year, maybe if it is complex, but I think six (6) years, for me, as Kaipo would say, is “unreasonable.” If it is unreasonable, then what have we learned? How are we going to improve on that? Instead of it lasting six (6) to eight (8) years and so forth, maybe we can get it down to one (1) year or speed it up a little bit. If you are right, you put them on leave without pay. If you are wrong, then you bring them back to work. Let us get the County of Kaua'i to pay for a salary that is actually working. Like I said, a delay of some sort is reasonable as you do your investigation, but this type of incidents, for me, is far too long. We have others on the burner right now that I heard is coming to conclusion, but again, what have we learned? If we do not learn anything, like Councilmember Kawakami said, that is the meaning of “insanity” to just keep going down the same road and just continue and continue. The same thing happened and nobody is accountable. I hope that somebody can tell me at some point, either on the administration side of KPD or on the Human Resources side, what have we learned and what are we going to change? Thank you.

Council Chair Rapozo: Thank you. Any other discussion? I think everyone agrees with you, Councilmember Kagawa. It is frustrating to have this still here. With that, roll call.

The motion to convene into Executive Session for ES-945, ES-946, ES-947, and ES-948 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: With that, we will recess at this point and go into Executive Session in five (5) minutes and then we will take the last item on the agenda, following the public hearing at 1:30 p.m.

There being no objections, the meeting recessed at 11:35 a.m.

The meeting reconvened at 1:38 p.m., and proceeded as follows:

*(Councilmember Yukimura was noted as excused.)*

Council Chair Rapozo: Clerk, can you read our last item, please?

C 2018-106 Communication (03/28/2018) from the First Deputy County Attorney, requesting authorization to expend additional funds of up to \$100,000.00 from the Claims and Judgments account to satisfy the County of Kaua'i's self-insured retention limit concerning the litigation of Mark N. Begley vs. County of Kaua'i, et al., Civil No. CV16-00350, and related matters: Councilmember Kagawa moved to approve C 2018-106, seconded by Councilmember Brun.

Council Chair Rapozo: Anyone from the public wishing to testify on this?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I want to thank the Office of the County Attorney for updating us. I am going to have a written memorandum out from our office to the Department of Human Resources, the Mayor, as well as the Chief of Police and I want this questioned answered, because this Begley Case was there prior to I even becoming on this Council...I think it was about eight (8) years already that we had this officer on paid leave. I think these cases are unreasonable. We need to make decisions sooner. I do not think it is right for taxpayers to be paying people that are not physically working and the County just sitting there and waiting for things to be done. My questions that I want answered are: what have we learned; and in the future, should something arise like this in a similar case, what are we going to do differently? I think making no adjustments, knowing mistakes have been made, is truly the meaning of "insanity." Thank you, Chair.

Council Chair Rapozo: Any other discussion?

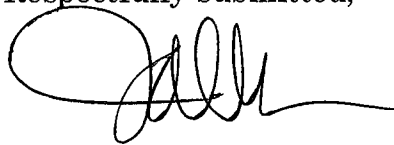
The motion to approve C 2018-106 was then put, and carried by a vote of 6:0:1  
(*Councilmember Yukimura was excused*).

Council Chair Rapozo: Motion carried. With that, there is no further  
business on the agenda. With no objections, this meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 1:40 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a large, stylized initial 'J' and a long horizontal flourish extending to the right.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:ct